

TITLE 13-000.

POLICE AND PUBLIC OFFENSES

13-100. POLICE.

13-110. POLICE DEPARTMENT.

13-111. POLICE DEPARTMENT – ESTABLISHED.

There is hereby established a regularly constituted police force to be known as the police department, which shall consist of a chief of police and such other police officers as shall be employed by Delta City.

13-112. MARSHAL – CHIEF OF POLICE.

A. Powers. Cities see Utah Code Annotated §§ 10-6-65 and 10-6-68 (1953), as amended.

B. The chief of police shall organize, supervise and be responsible for all the activities of the police department and shall define and assign the duties of the different police officers.

C. He shall, when required, attend meetings of the City Council to consult with and advise them on matters of public safety. He shall execute all lawful orders of the Mayor and City Council and see that all lawful orders and judgments of the Justice of the Peace are carried into effect.

13-113. ADDITIONAL POWERS AND DUTIES OF POLICEMEN.

The Chief of Police and all police officers of Delta City shall have the following powers and duties in addition to those that may be assigned to them as above provided:

A. To suppress riots, disturbances and breaches of peace, and to apprehend all persons committing any offense against the laws of the State or ordinances of Delta City.

B. To execute and serve all warrants, processes, commitments and writs whatsoever issued by the Justice of the Peace.

C. To preserve the public peace, prevent crime, detect and arrest offenders, protect persons and property, remove nuisances existing in the public streets, roads, highways and other public places, enforce every law relating to the suppression of offenses, render such assistance in the collection of licenses as may be required by the license collector and perform all duties enjoined upon them by law and ordinance.

D. Duties of the Chief may be delegated by provisions of the police department manual.

13-114. REGISTER OF ARREST.

The Chief of Police shall provide and cause to be kept a register of arrest. Upon such register shall be entered a statement showing the date of such arrest, the name of the person arrested, the name of the arresting officer, the offense charged and a description of any property found upon the person arrested.

13-115. PROPERTY TAKEN FROM THE PERSON ARRESTED – TRIPLICATE RECEIPTS.

When money or other property is taken from a person arrested upon a charge or a public offense, the officer taking it must at the time issue at least triplicate receipts therefore specifying particularly the amount of money or kind of property taken. One of the receipts he must deliver to the person arrested. Another he must forthwith file with the clerk of the court to which the complaint and other papers in the case are required by law to be sent. The third receipt must be sent at once to the office of the police department.

13-116. REGISTER OF PROPERTY TO BE KEPT.

The Chief of Police must enter or cause to be entered in a suitable book a description of every article of property alleged to be stolen or embezzled and brought into his office or taken from the person of the prisoner and must attach a number to each article and make a corresponding entry thereof.

13-117. STOLEN PROPERTY DISPOSITION.

It shall be the duty of the Chief of Police to keep all lost or stolen property that comes into the possession of the police department or any of its members. He shall make all reasonable efforts to discover the owners thereof.

13-120. JAIL.

13-121. CITY COUNCIL TO PROVIDE.

A. The City Council shall provide for a place of incarceration which shall be the Delta City jail.

B. The City Council may contract with any person, county, municipality or combination thereof for the purpose of providing suitable premises and facilities to be used as the Delta City jail.

13-122. JAILER.

Until another person is appointed, the Chief of Police shall be ex-officio jailer. The jailer shall:

A. Receive and safely keep all persons duly committed by his custody and file and preserve all commitments by which persons are committed.

B. Keep a record of each showing the date of arrest, offense charged, term of commitment, date of release and the name, age and place of birth and description of the person committed in a book kept for that purpose.

13-123. RULES.

The jailer shall formulate a system of prison rules and discipline and keep a record in which shall be entered a statement of every infraction thereof committed by any person confined therein.

13-124. DUTIES OF JAILER.

The jailer shall receive all persons committed to jail by competent authority, and provide them with necessary food, clothing and bedding; he shall cause the prison to be warmed and lighted, when necessary, and to be kept in a sanitary condition. He shall enforce all rules prescribed by the City Council for the government of the prison.

13-125. PRISONERS TO LABOR ON PUBLIC WORKS.

Any prisoner committed to the jail or other place of incarceration as a punishment or in default of the payment of a fine or fine and cost, arising from a violation of the ordinances of Delta City may be required to work for Delta City at such labor on public works and ways as his strength will permit, not exceeding eight hours in each working day.

13-126. WORK TO BE PERFORMED UNDER THE DIRECTION OF THE JAILER.

The labor on public works and ways shall be designated by and performed under the direction of the Jailer, which labor may include, among other things, clerical, janitorial, car washing, common and menial labor performed in and upon any building, road or property owned or maintained by Delta City. The labor required by this section shall be performed in addition to that labor required by jail regulations to be performed by all prisoners confined in the jail in cleaning and maintaining their cells.

13-127. TIME OFF FOR WORK PERFORMED.

For each month in which a prisoner confined or committed to the jail has actually and satisfactorily performed work as reported and recorded by the officer in charge, five days may be deducted from his period of confinement. The reduction of sentence allowed pursuant to this part shall be in addition to the reduction allowed by section 13-129, but no prisoner shall be granted a total reduction of sentence under this part in excess of ten days for any single month. Proportionate reductions shall be made for the fractional period of a month included in any sentence.

13-128. FAILURE TO PERFORM WORK MADE BREACH OF RULES.

Failure to perform the specified labor, except when the strength or other condition of the prisoner will not permit, shall constitute a breach of the rules of the municipal jail, and no reduction of sentence shall be allowed under section 12-129.

13-129. TIME OFF FOR GOOD BEHAVIOR.

A. Every person undergoing sentence for thirty days or more who has not been guilty of a breach of the rules of the prison shall be entitled to a reduction for the period of his sentence as follows: 1) from a term of one month, five days; 2) from a term of two months, ten days; 3) from a term of three months, fifteen days; 4) from a term of four months, twenty days; 5) from a term of five months, twenty-five days; and 6) from a term of six months, thirty days.

B. Proportionate reductions shall be made for the fractional parts of a month included in any sentence.

13-200. ANIMAL CONTROL.

13-210. ANIMAL CONTROL OFFICER.

13-211. OFFICE OF ANIMAL CONTROL OFFICER CREATED.

The position of Animal Control Officer is hereby created.

13-212. DUTIES OF ANIMAL CONTROL OFFICER.

The Animal Control Officer shall perform the following duties:

A. Carry out and enforce the provisions of this chapter.

B. Take into his possession and impound all strays running at large and dispose of the same as hereinafter provided.

C. Enforce the licensing and control of all dogs within Delta City as hereinafter provided.

D. Issue citations against any person, firm or corporation failing to comply with the provisions of this chapter and obtain licenses when required thereunder.

E. Capture and secure all animals found running at large contrary to the provisions of this chapter and impound such animals in a humane manner.

F. Provide for a good and sufficient pound in which all animals duly committed to his charge or otherwise impounded by him shall be maintained.

G. Enter a description thereof in records kept for that purpose stating the kind of animal, the circumstances under which it was received or impounded, and a description thereof sufficient to provide identification, the costs expended for the maintenance of the animal and amounts received arising out of maintenance or sale of animals.

13-213. INTERFERENCE WITH OFFICER PROHIBITED.

It shall be unlawful for any person to interfere, molest, hinder or obstruct the Animal Control Officer or any of his authorized representatives in the discharge of their duties as herein prescribed.

13-214. FEES – SERVICES OF ANIMAL CONTROL OFFICER.

The Animal Control Officer Shall charge, and the owners of animals taken into his possession for impound disposal or other services shall pay such fees and charges for services performed by the pound or Animal Control Officer as the City Council shall establish from time to time by resolution. All fees received by the Animal Control Officer shall be paid over to the municipal Treasurer.

13-220. CARE AND KEEPING.

All pens or enclosures where animals, fowl or reptile are kept and maintained shall be kept free of filth at all times. All manure shall be cleaned regularly from pens and kept in a manure pile that shall be removed at least twice a week. Each pen or enclosure shall be sprayed with a suitable residual spray as often as is necessary to control flies, insects, rodents and noxious odors.

13-221. ANIMALS AT LARGE.

No cattle, horses, mules, sheep, goats or swine shall be allowed to run at large or to be herded, picketed or staked out upon any street, sidewalk or other public place within the limits of Delta City, and all such animals so found may be impounded. Nothing herein contained shall be so construed as to prevent any person from driving cows, horses, mules or other animals from outside municipal limits to any enclosure within the municipal limits or from any enclosure in Delta City to a place outside Delta City or from one enclosure to another within limits of Delta City.

13-222. ABANDONMENT.

It shall be unlawful for any person to abandon or turnout at large any sick, diseased, or disabled animal, but such animal shall when rendered useless by reason of sickness or other disability, be humanely killed by the owner thereof and its carcass disposed of in such manner as to create no nuisance or hazard to health.

13-223. TRESPASSING ANIMALS AND FOWL.

It shall be unlawful for any owner or caretaker of any domestic fowl or animal to permit such fowl or animal to trespass upon the premises of another person. The owner of any animal so allowed to trespass shall be guilty of an infraction.

13-224. KILLING OR POISONING PROHIBITED.

It shall be unlawful for any person willfully to kill any domestic animal by administering poison to any such animal or to expose any poisonous substance with the intent that it shall be taken by any such animal.

13-225. DEAD ANIMALS.

The owner of any animal or fowl that has died or been killed shall remove or bury the carcass of such animal within ten hours after its death, provided that no horse, cow, ox or other animal shall be buried within the closely-inhabited portions of Delta City. A violation of this section is a Class "C" misdemeanor.

13-226. DISEASED ANIMALS.

It is a Class "C" misdemeanor for any person to bring into Delta City for sale or have in his possession with intent to sell or offer for sale, any animal which has a communicable disease or which has been exposed to or which is liable to carry infection from a communicable disease.

13-227. SALE OF DISEASED ANIMALS.

It is a Class "C" misdemeanor for any person to bring into Delta City for sale or to sell, or offer for sale any cattle, sheep, swine, fish, game, fowl or poultry which are diseased, unsound and unwholesome or which are for any other reason unfit for human food.

13-228. REPORTING OF RABID ANIMALS.

Anyone having knowledge of the whereabouts of an animal known to have or suspected of having rabies shall report the fact immediately to the municipal health officer or Millard County Sheriff. The health officer or police shall likewise be notified of any person or animal bitten by a rabid or suspected rabid animal.

13-229. BITING ANIMAL QUARANTINED FOR OBSERVATION.

Any dog or other animal of a species subject to rabies which is known to have bitten or injured any person so as to cause an abrasion of the skin shall be placed in confinement under observation of a veterinary hospital or the municipal pound and shall not be killed or released until at least 14 days after the biting or injury has occurred in order to determine whether or not the animal has rabies. If the animal dies or has been killed, its head shall be removed and immediately taken to the state health laboratory to be examined for rabies.

13-230. RABIES CONTACTS QUARANTINED.

Any animal or a species subject to rabies which has been bitten by a known rabid animal or has been in intimate contact with a rabid animal shall be isolated in a suitable place approved by the Animal Control Officer for a period of 120 days or destroyed.

13-231. UNLAWFUL ACTS. It shall be unlawful for any person to:

- A. Overdrive, overload, drive when overloaded, overwork, torture, cruelly beat, mutilate, carry or transport in any vehicle or other conveyance in a cruel and inhuman manner, any animal or cause any of these acts to be done.
- B. Fail to provide any animal in his charge or custody with necessary sustenance, drink and protection from the elements or cause any of these acts to be done.
- C. Maintain any place where fowls or any animals are suffered to fight upon exhibition or for sport upon any wager.

13-240. PROVISIONS SPECIFICALLY APPLICABLE TO DOGS.

13-241. DEFINITIONS.

As used in this ordinance, unless the context otherwise indicates, the following words shall mean:

- A. "Dog" shall mean any male or female dog of any age.
- B. "Unlicensed dog" is hereby defined and declared to mean a dog for which the license for the current year has not been paid, or to which the tag provided for in this part is not attached.
- C. "Owner," when applied to the proprietorship of a dog, shall mean any person or persons, firm, association or corporation owning, keeping or harboring a dog.
- D. The term "at large" shall be intended to mean off the premises of the owner and not under the control of the owner, a member of his immediate family or his agent either by leash, cord, chain or otherwise.
- E. "Pound" shall mean an animal shelter, lot, premises or buildings maintained by or authorized or employed by Delta City for the confinement or care of dogs seized either under the provision of this chapter or otherwise.
- F. "Impounded" shall mean having been received into the custody of the municipal pound or into the custody of any authorized agent or representative of Delta City.
- G. "Vicious dog" shall be any dog that fits the definitions of 13-271.
- H. "Animal Control Officer" shall mean the custodian selected by the City Council to be responsible for the operation of the dog pound.

13-242. LICENSE AND REGISTRATION REQUIRED.

- A. It shall be an infraction for any person to keep, harbor or maintain any dog six (6) or more months old unless such dog has been registered and licensed in the manner herein provided.

- B. Application for registration and licensing shall be made to the Treasurer or such other person as the City Council may authorize to receive such applications.
- C. A dog license shall be issued by the Treasurer or such other person as the City Council may authorize.
- D. No dog license shall be issued by Delta City until the fee required herein is paid. Fees shall be charged as set by resolution
- E. The fee due and payable shall be due July 1 and shall be delinquent after August 1 of each year. A penalty of 25 percent shall be added to delinquent payments.
- F. Anyone owning, keeping, harboring or maintaining three or more dogs over the age of three -months shall be considered operating a dog kennel and shall be required to pay an annual kennel license fee as set by resolution.
- G. The owner shall state at the time application is made for such license, his name and address and the sex, breed and color of each dog owned or kept by him. The license fee shall cover the calendar year in which the license was issued, expiring on the 30th day of June following the year of issuance, regardless of the date when issued.
- H. The provisions of this section shall not be intended to apply to dogs whose owners are nonresidents temporarily brought within Delta City; nor to dogs brought to Delta City for the purpose of participating in any dog show, nor to commercial kennels.
- I. Dogs used as guides for blind persons and commonly known as Seeing Eye dogs shall be licensed and registered as other dogs hereinabove provided; except that the owner or keeper of such dog shall not be required to pay any fee therefor.

13-243. TAG AND COLLAR.

Upon payment of the license fee, the Treasurer shall issue to the owner a payment receipt and a metallic tag for each dog so licensed. The tag shall be changed every year and shall have stamped thereon the year for which it was issued and the number corresponding with the number on the receipt. Every dog owner, except those operating a kennel, shall provide each dog with a collar to which the license tag shall be affixed, and shall see that the collar and tag are worn constantly. In case a dog tag is lost or destroyed, a duplicate will be issued by the Treasurer upon presentation of a receipt showing the payment of the license fee for the current year and the payment set by resolution for such duplicate tag. Dog tags shall not be transferable from one dog to another, and no refunds shall be made on any dog license fee because of death of the dog or the owner's leaving Delta City before expiration of the license period. It shall be unlawful to deprive a licensed dog of its collar and/or tag.

13-244. RUNNING AT LARGE PROHIBITED.

A. It shall be an infraction for the owner or keeper of any dog to permit such dog to run at large.

B. It shall be an infraction for an owner of a dog to permit such dog to go upon or be upon the private property of any person without the permission of the owner or person entitled to the possession of such private property.

C. The owner or custodian of any dog running at large shall be deemed in violation of this section regardless of the precautions taken to prevent the escape of the dog and to prohibit it from running at large.

D. Any dog running at large in violation of the provisions of this section is hereby declared to be a nuisance and a menace to the public health and safety, and the dog shall be taken up and impounded as provided herein.

13-244.B. ESTABLISHING RULES FOR ALLOWING DOGS IN THE DELTA CITY PARK ("CITY PARK") AND PROHIBITING DOGS IN THE CITY PARK ON THE FOURTH DAY OF JULY EACH YEAR OR ANY OTHER DAY ON WHICH THE FOURTH OF JULY HOLIDAY IS CELEBRATED.

Section 1. Regulation of Dogs in the City Park.

a. It shall be an infraction for any person to bring, permit or allow any dog into the Delta City Park, except when under the control of the person and on a leash that does not exceed ten (10') feet in length.

b. It shall be an infraction for any person to bring, permit or allow any dog into the Delta City Park unless such person shall immediately remove any excrement deposited by the dog from the park or dispose of it in an appropriate trash receptacle.

c. It shall be an infraction for any person to bring, permit or allow a dog into the Delta City Park on the fourth (4th) day of July of each calendar year or any other day on which the Fourth of July holiday is celebrated.

13-245. FEMALE IN HEAT.

The owner of a female dog in heat shall cause such dog to be penned or enclosed in such a manner as to preclude other dogs from attacking such female dog or being attracted to such female dog so as to create a public nuisance.

13-246. STRAYS.

It shall be unlawful for any person to harbor or keep within Delta City any lost or strayed dog. Whenever any dog shall be found which appears to be lost or strayed, it shall be the duty of the finder to notify the City Recorder or Animal Control Officer who shall impound the dogs for running at large contrary to the terms of this part. If there shall be attached

to such dog a license tag for the then current fiscal year, the Animal Control Officer shall notify the person to whom such license was issued, at the address given in the license.

13-247. RABIES.

Every owner of any dog over the age of six months within Delta City shall have the dog vaccinated against rabies by a duly licensed veterinarian, shall secure from the veterinarian a certificate thereof, and shall attach to the collar or harness which such person is hereby required to place upon the dog, a tag showing that such vaccination has been done, provided that the City Council may, by resolution provide that the owners of any dog may themselves purchase serum and vaccinate their own dogs. The resolution shall also prescribe the conditions with which the owner must comply to obtain the tag hereinafter required.

13-248. DOGS REQUIRED TO HAVE RABIES SHOT.

It shall be unlawful for the owner of any dog to suffer, allow or permit such dog to be or go upon any sidewalk, street, alley, public place or square within Delta City without first having had such dog vaccinated against rabies as above provided within the past two years, and without there being on such dog a collar or harness with a license tag thereon showing that such dog has been so vaccinated.

13-249. DOGS WHICH DISTURB NEIGHBORHOOD.

No person, persons, firm or corporation will own, keep or harbor any dog which by loud, continued or frequent barking, howling, yelping or by noxious or offensive odors shall annoy, disturb or endanger the health and welfare of any person or neighborhood. A violation of this section shall be a Class "C" misdemeanor and such is hereby declared to be a nuisance, and each day a violation is permitted to exist or continue shall constitute a separate offense. This section shall not apply to the municipal dog pound, veterinary hospitals or medical laboratories.

13-251. IMPOUND FACILITIES.

The City Council may contract with a veterinarian or some other humane person as Pound Master, or with the county for the purpose of providing suitable premises and facilities to be used by Delta City as the dog pound. It shall be maintained in some convenient location and shall be sanitary and so operated as to properly feed, water and protect the dogs from injury.

13-252. IMPOUNDING.

It shall be the duty of every authorized law enforcement official or other designated official to apprehend any animal found running at large and to impound such animal in the pound or other suitable place. The Animal Control Officer or some other designated official, upon receiving any dog, shall make a complete registry, entering the breed, color

and sex of such dog and whether licensed. If licensed, he shall enter the name and address of the owner and number of the license.

13-253. RECORD OF IMPOUNDING ANIMALS.

The Animal Control Officer shall keep a record of each animal impounded by him, the date of receipt of such animal, the date and manner of its disposal and if redeemed, reclaimed, or purchased, the address of such person, the amounts of all fees received or collected for or because of the impounding, reclaiming or purchasing thereof, together with the number of any tag and the date of any tag exhibited or issued upon the redemption or sale of such animal.

13-254. REDEMPTION OF IMPOUNDED ANIMALS.

Any animal impounded as a licensed or unlicensed dog may be redeemed and taken from such pound by the owner or any authorized person, upon exhibiting to the supervisor or person having charge of said pound, a receipt as provided in section 13-252, showing that the license imposed by this part has been paid for such dog and upon payment the person in charge of the pound an impounding fee as set by resolution for each and every day such dog shall have been impounded or such other amounts as may be set by resolution of the City Council. All impounded animals which are not estrays and not redeemed within five days may be euthanized.

13-255. DISPOSITION OF UNCLAIMED AND INFECTED ANIMALS.

All impounded animals which are not estrays and not redeemed within five days of the date of impounding may be destroyed or sold to the person first making written request for purchase at such price as may be deemed agreeable. In the case of animals severely injured or having contagious disease other than rabies and which in the Pound Master's judgment are suffering and for which recovery is doubtful, the Pound Master may destroy the dog without awaiting the five-day period.

13-256. INTERFERENCE WITH IMPOUNDING PROHIBITED.

It shall be unlawful for any person to hinder, delay, interfere with or obstruct the Animal Control Officer or any of his assistants while engaging in capturing, securing or taking to the dog pound any dog or dogs required to be impounded, or to break open or in any manner directly or indirectly aid, counsel or advise the breaking open of any dog pound or vehicle used for the collecting or conveying of dogs to the dog pound.

13-260. ESTRAYS.

13-261. IMPOUNDING AND DISPOSAL OF ESTRAYS, GENERALLY.

It is hereby made the duty of the Animal Control Officer to take into his possession and impound all animals running at large, and to dispose of the same as hereinafter provided.

Whenever the word "estrays" appears in this part, it is defined to mean any valuable animal, except dogs or cats, not wild, found wandering from its owner.

13-262. NOTICE OF SALE OF ESTRAYS.

Within seven days after an estray shall come into the possession of the Animal Control Officer, he shall advertise the same in a newspaper published in and having general circulation in the county by publishing a notice in at least one issue of the newspaper, and by posting notices for a period of ten days at three public places in the City of Delta, one of which places shall be at or near the post office. He shall immediately deliver a copy of such notice to the Delta City Clerk. The notice herein provided for shall contain a description of the animals, including all marks and brands, when taken, and the day, hour and place of sale, and may be substantially in the following form:

NOTICE

State of Utah, County of Millard, In the City of Delta,

I have in my possession the following described estray animals, which, if not claimed and taken away, will be sold at public auction to the highest cash bidder at the municipal pound in the City of Delta, on _____, the _____ day of _____, 2____, at the hour of _____:

(Description of animals)

The strays were taken up by me in the City of Delta on the _____ day of _____, 2____.

Delta City Animal Control Officer

13-263. RETURN TO OWNER ON PAYMENT OF COSTS – SALE.

If at any time before the sale of any estrays, such animals shall be claimed and proved to be the property of any person, the Animal Control Officer shall release them to the owner upon receiving from him the cost of impounding, keeping and advertising the same. If the animals are not so claimed and taken away, he shall, at the time and place mentioned in the notice, proceed to sell the same, one at a time, to the highest cash bidder, and shall execute and deliver a bill of sale transferring said animals to the purchaser or purchasers thereof, which bill of sale shall be substantially in the following form:

I hereby certify that in pursuance of the law regulating the disposal of strays; I have this day sold to _____ for the sum of \$_____, he/she being the highest bidder, _____ head of _____ branded with the municipality estray brand and otherwise described as follows, to-wit:

(Description of Animals)

Witness my hand this ____ day of _____, 2____.

Delta City Animal Control Officer, State of Utah

The Animal Control Officer shall immediately file a copy of such bill of sale with the City Clerk Such bill of sale shall transfer and vest in such purchaser the full title to the animals thus sold.

13-264. RECORD OF ESTRAYS.

The Animal Control Officer shall keep an accurate record of all strays received by him, their estimated age, color, sex, marks and brands, the time and place of taking and the expense of keeping and selling the same, all animals claimed and taken away, all animals sold and to whom sold and the amount paid, all moneys paid to owners after sale, all moneys paid into the treasury, and all other matters necessary to a compliance with the provisions of this part. The City Council shall provide the Animal Control Officer with a suitable book in which shall be entered the records required by law to be kept by the Animal Control Officer. Such records shall be open to the inspection of the public at all reasonable hours, and shall be deposited by the Animal Control Officer with his successor in office.

13-270. VICIOUS AND DANGEROUS ANIMALS.

13-271. DEFINITIONS. As used in this ordinance, unless the context otherwise indicates, the following words shall mean:

A. "Confined on Premises" shall mean the condition in which an animal is securely and physically confined and restrained on and within the premises of the owner by means of walls, fences, rope, chain, leash or other devices of the strength and size as to physically prevent the animal from leaving the premises, and to physically prevent the animal from causing physical injury to persons or other animals which are off the premises on which the confined animal is located.

B. "Dangerous Animal" An animal that, without provocation, has chased or approached in either a menacing fashion or in an apparent attitude of attack or has attempted to bite or otherwise endanger any person or other animal while the animal alleged to be dangerous is off the premises of the owner or while the animal is not physically restrained or confined on the premises. Dangerous Animal does not include a police dog while the police dog is being used to assist law enforcement officers in the performance of their duty.

C. "Diseased Animal" An animal believed to be infected with a dangerous or communicable disease.

D. "Menacing Fashion" An animal that would cause any person observing the animal to reasonably believe that the animal will cause physical injury to persons or other animals.

E. "Vicious Animal"

1. An animal that, without provocation, has killed or caused physical injury to any person or has killed or caused physical injury to another animal.

2. Vicious Animal does not include a police dog while the police dog is being used to assist law enforcement officers in the performance of their official duties and where any injury inflicted by the police dog was reasonably related to the duties being performed.

F. "Without Provocation" An animal was not teased, tormented or abused and also means where the animal was not protecting its owner or owner's property from criminal activity by a perpetrator of a crime.

13-272. VIOLATION

A. It shall be unlawful for any person to own, possess or bring into Delta City a vicious, dangerous, or diseased animal within Delta City, except as may be permitted in this section. Violation of this sections is a Class "B" misdemeanor.

B. Whenever a prosecution for this offense is commenced under this section, the animal so involved shall be impounded and may not be redeemed, pursuant to the provisions of this part, while awaiting final decision of the court as to the disposition to be made of such animal.

C. Upon the trial of any offense under this part, the court may,

1. upon the conviction and in addition to the usual judgment of conviction, order authorized personnel of Delta City to put the animal to death or may order such other disposition of the animal as will protect the inhabitants of Delta City.

2. The court may also order restitution in favor of Delta City for all costs incurred by Delta City for impounding, caring for, and euthanizing the animal.

13-280. WILD OR EXOTIC ANIMALS

13-281. DEFINITIONS. As used in this ordinance, unless the context otherwise indicates, the following words shall mean:

A. "Wild or Exotic Animal" means any animal which is not commonly domesticated, or which is not native to North America, or which, irrespective of geographic origin, is of a wild or predatory nature, or any other animal which, because of its size, growth

propensity, vicious nature or other characteristics, would constitute an unreasonable danger to human life, health or property if not kept, maintained or confined in a safe and secure manner, including hybrids, and animals which, as a result of their natural or wild condition, cannot be vaccinated effectively for rabies. Those animals, however domesticated, shall include, but are not limited to:

1. Alligators and crocodiles;
2. Bears (Ursidae): All bears, including grizzly bears, brown bears, and black bears;
3. Cat Family (Felidae): All except the commonly accepted domesticated cats, and including cheetahs, cougars, leopards, lions, lynx, panthers, mountain lions, bobcats, tigers and wildcats;
4. Dog Family (Canidae): All except domesticated dogs, and including wolf, part wolf, fox, part fox, coyote, part coyote, dingo and part dingo;
5. Porcupines (Erethizontidae);
6. Primate (Hominidae): All subhuman primates;
7. Raccoon (Prosynnidae): All raccoons, including eastern raccoons, desert raccoons and ring-tailed cats;
8. Skunks;
9. Fish: Venomous, Oscar, and Parana;
10. Snakes or Lizards: Venomous snakes, Pythons, and lizards;
11. Weasels (Mustelidae):

All, including weasels, martins, wolverines, ferrets, badgers, otters, ermine, mink and mongoose, except that the possession of such animals shall not be prohibited when raised commercially for their pelts. If such animal is being raised commercially for its pelt, then the animal shall be kept in a condition in which the animal is securely and physically confined and restrained on and within the premises of the owner by means of walls, fences, rope, chain, leash or other device of the strength and size as to physically prevent the animal from leaving the premises, and to physically prevent the animal from causing physical injury to persons or other animals which are off the premises on which the confined animal is located.

13-282. LIMITATION ON POSSESSION OF EXOTIC OR WILD ANIMALS.

A. It is unlawful for any person to sell, offer for sale, barter, give away, keep, own, harbor, temporarily house or purchase any wild animal as defined in 13-281 of this chapter, or its successor; except, an animal shelter, a zoological park, veterinary hospital, humane society shelter, public laboratory, circus, sideshow, amusement show, or facility

for education or scientific purposes may keep such an animal if protective devices adequate to prevent such animal from escaping or injuring the public are provided and an appropriate permit is obtained.

B. City residents who own a "wild or exotic" animals as described in 13-281 prior to the enactment of this chapter, may be permitted to keep the animal subject to the owner obtaining all necessary vaccinations, permits, and licenses, including any required license with the Utah Division of Wildlife Resources; taking the necessary precautions of owning such animal, such as keeping it contained upon the property; and obtaining prior approval from the Delta City Council. If the city resident's wild, exotic or dangerous animal is "grandfathered in" under this provision, the city resident, upon the death or termination of ownership of the resident's wild, exotic or dangerous animal is not allowed to obtain any subsequent wild or exotic animal pursuant to the exception placed upon the resident's "grandfathered" animal. Such exception to this chapter terminates at the time of death or termination of ownership of the "grandfathered" animal or owner of the "grandfathered" animal.

13-283 PUNISHMENT/ENFORCEMENT.

A. Violation of the provisions of this chapter shall constitute a Class "B" misdemeanor and shall be punishable as such. Every day that a party is in violation of this chapter shall constitute a separate violation. The time period for the violation begins when the person is cited for the violation.

B. The Animal Control Officer or otherwise authorized official has the authority to seize an animal defined in 13-281, where the owner of such animal does not meet one of the exceptions to 13-282. The animal control officer or otherwise authorized official shall then provide notice to the owner, as can be reasonably determined, that the owner must retrieve the animal within six days of the seizure of the animal. Upon retrieval of said animal, the owner must remove the animal outside of Delta City limits. Said animal must be removed from Delta City limits on the day of retrieval, and each successive day, thereafter, shall constitute a separate offense to this chapter and the person allowing or permitting the continuation of said violation may be punished for each separate offense. Removed animals must remain, at all times, outside of Delta City limits. If the owner does not claim the animal within the six-day time period, the animal may, at the discretion of the Animal Control Officer, may be destroyed or removed. In addition, the owner of such animal in violation of this chapter shall be responsible for all reasonable costs associated with seizing, housing, feeding, and destroying or removing such animal.

13-300. GENERAL POLICE POWERS.

13-310. OFFENSES RE: MINORS.

13-311. PURCHASE, POSSESSION PROHIBITED.

Any person who maintains in his place of business a tobacco vending machine accessible to person under the age of 19 or provides any method of self-help for the disposition to persons under the age of 19 by gift, sale or otherwise of any cigarette or cigarette paper or wrapper or any paper made or prepared for the purpose of making cigarettes or tobacco in any form whatsoever is guilty of a class C misdemeanor. Cigarette vending machines shall be deemed accessible to persons under the age of 19 except:

- A. Where they are in locations where persons under the age of 19 are prohibited.
- B. Where the machine can be operated only by the owner or his employee, either directly or through a remote control device which is inaccessible to the customer and must be operated for each sale.
- C. In private industrial locations where only adult employees are customarily allowed, provided such locations are inaccessible to person under the age of 19.
- D. In adult, private clubs, provided that such locations are inaccessible to persons under the age of 19.

13-312. CURFEWS – MINORS – EXCEPTIONS.

No person under the age of 18 years shall be or remain on or at the Delta City parks between the hours of 10:00 p.m. and 5:00 a.m.; nor shall any person under the age of 18 years be or remain upon any of the streets, alleys or other public places or vacant lots between the hours of 12:00 midnight and 5:00 a.m., unless such person is accompanied by a parent, guardian or other person having legal custody of such minor person, or unless the employment or lawful business of such minor makes it necessary to be upon the streets, alleys or other public places between such specified hours, in which event such minor person shall obtain a permit from Delta City. On any night when adult-supervised, organized, activities sponsored by school, civic or church organizations are to be conducted, the hours of curfew shall be 1:00 a.m. to 5:00 a.m. for those persons under the age of 18 years who have been participating in such activities; provided, however, that the hours of curfew shall not apply if an adult representative of the organization sponsoring such activity provides notice thereof in advance to Delta City, during its regular business hours, which notice shall specify the location, times, type of activity(ies) and the number of persons and approximate ages of persons who are expected to participate in such activity. Where a permit is required from Delta City under this section, such permit shall be kept upon the person and it shall be unlawful to be upon the parks, streets, alleys or public places within curfew hours without such permit. It shall be unlawful to transfer any permit issued by Delta City, or for any person other than the person to whom the permit issued to have such a permit in his/her possession; or to allow or aid any person other than the person to whom the permit was issued to make use of or possess the same. For purposes of this ordinance, the permit(s) issued by Delta City shall be issued by the Mayor or any other administrator of Delta City.

13-313. RESPONSIBILITY OF PARENTS, GUARDIANS FOR CURFEW.

No parent, guardian or other person having legal charge or custody of any person under eighteen (18) years of age shall knowingly allow or permit any such person under eighteen (18) years of age, to be on or at any of the parks, streets, alleys or other public places when it would be a violation of Section 13-312.

13-314. Repealed by Ordinance 86-105.

13-320. INTOXICANTS AND LIQUOR.

13-321. PUBLIC INTOXICATION PROHIBITED.

A. It is a Class "C" misdemeanor for any person to be under the influence of an intoxicating liquor, a controlled substance or of any substance having the property of releasing toxic vapors, to a degree that the person may endanger himself or another in a public place or in a private place where he unreasonably disturbs another person.

B. A peace officer or magistrate may release from custody an individual arrested under this section if he believes imprisonment is unnecessary for the protection of the individual or another.

13-322. ILLEGAL SALE, MANUFACTURING OR STORAGE OF INTOXICATING LIQUOR.

It shall be unlawful for any person, except as permitted by state law, and the ordinances of Delta City to knowingly have in his possession any intoxicating liquor or to manufacture, keep, sell or store for sale, offer or expose for sale, import, carry, transport, advertise, distribute, give away, dispense or serve intoxicating liquor.

13-323. POSSESSION OF LIQUOR.

It shall be unlawful except as permitted by state law and the ordinances of Delta City for any person to have or keep for sale or possession any liquor which has not been purchased from the state liquor store or package agency.

13-324. LIQUOR TO DRUNKEN PERSON.

It shall be unlawful for any person to sell or supply any alcoholic beverage or to permit alcoholic beverages to be sold or supplied to any person who is apparently under the influence of liquor.

13-325. ALCOHOLIC BEVERAGES AND MINORS.

A. Sale at Unauthorized Locations, Dates or Times.

No person authorized by this Title 13-000 to sell any alcoholic beverage or product, and no officer, employee or agent of the person shall sell, offer to sell or otherwise furnish or

supply, any alcoholic beverage or product in any place, or at any date or time other than as authorized by this title or Title 9-000 of the Revised Ordinances of Delta City (1981 edition), as amended.

B. Sale or Supply of Alcoholic Beverages or Products to Minors Prohibited.

No person shall sell, offer to sell, or otherwise furnish or supply any alcoholic beverage or product to any person under the age of 21 years. However, this section shall not apply to the furnishing or supplying of an alcoholic beverage or product to a minor for medicinal purposes by the parent or guardian of the minor or by the minor's physician or dentist, in accordance with this title.

C. Sale or Supply of Alcoholic Beverages or Products to Drunken Person.

No person may sell, offer to sell or otherwise furnish or supply any alcoholic beverage or product to any person who is apparently under the influence of intoxicating alcoholic beverages or products or drugs or to a person whom the person furnishing the alcoholic beverage knew or should have known from the circumstances was under the influence of intoxicating alcoholic beverages or products or drugs.

D. Sale or Supply of Alcoholic Beverages or Products to Interdicted Persons.

No person shall sell, offer to sell or otherwise furnish or supply, any alcoholic beverage or product to any known interdicted person. However, this section shall not apply to the furnishing or supplying of an alcoholic beverage or product to an interdicted person upon the prescription of a physician, or administered by a physician, dentist or hospital under this title. For purposes of this section, "interdicted person" means a person to whom the sale, gift or provision of an alcoholic beverage is prohibited by law or court order.

E. Unlawful Purchase, Possession or Consumption by Minor – Misrepresentation of Age of Minor.

1. It is unlawful for any person under the age of 21 years to purchase, possess or consume any alcoholic beverage or product, unless specifically authorized by this title.

2. It is unlawful for any person under the age of 21 years to misrepresent their age or for any other person to misrepresent the age of a minor, for the purpose of purchasing or otherwise obtaining an alcoholic beverage or product for a minor.

F. Unlawful purchase of an Alcoholic Beverage by Person Under the Influence.

No person may purchase any alcoholic beverage or product when he is under the influence of intoxicating alcoholic beverages, products or drugs.

G. Unlawful Purchase or Possession by Interdicted Person. No person may purchase or possess any alcoholic beverage or product if he is an interdicted person, except as prescribed or administered by a physician, dentist, or hospital, under this title.

H. Detention of Person Unlawfully in Facility Where Beer is sold.

Any beer retailer or his employee, who has reason to believe that a person in the facility where liquor or beer is sold is in violation of subsections 13-325.E., 13-325.F. Or 13-325.G. of this title may, for the purpose of informing a peace officer of the suspected violation, detain the person and hold any form of. Identification presented by the person, in a reasonable manner and for a reasonable length of time. The detention or failure to detain does not create criminal or civil liability for false arrest, false imprisonment, slander or unlawful detention unless the detention is unreasonable under all the circumstances.

13-326. SPECIAL BURDENS OF PROOF-INFERENCES AND PRESUMPTIONS.

A. In any prosecution of an offense defined in this title or in any proceeding brought to enforce this title.

1. It is not necessary that the city establish the precise description or quantity of the alcoholic beverages or products or the precise consideration, if any, given or received for the alcoholic beverages or products;

2. In proving the unlawful sale, disposal, gift or purchase, gratuitous or otherwise, or consumption of alcoholic beverages or products, it is not necessary that the City establish that any money or other consideration actually passed or that an alcoholic beverage or product was actually consumed if the court or trier of fact is satisfied that a transaction in the nature of the sale, disposal, gift or purchase actually occurred or that any consumption of alcoholic beverages or products was about to occur; and proof of consumption or intended consumption of an alcoholic beverage or product on premises on which consumption is prohibited, by some person not authorized to consume alcoholic beverages or products on those premises, is evidence that an alcoholic beverage or product was sold or given to or carrying away the alcoholic beverage or product as against the occupant of the premises.

3. There is an inference, absent proof to the contrary, that the alcoholic beverage or product in question is intoxicating if the witness describes it as intoxicating or by a name which is commonly applied to an intoxicating alcoholic beverage or product.

4. If it is alleged that an association or corporation has violated this title, the fact of the incorporation of the association or corporation is presumed absent proof to the contrary

5. A certificate or report signed or purporting to be signed by any state chemist, assistant state chemist or state crime laboratory chemist, as to the analysis or ingredients of any alcoholic beverage or product is prima facie evidence of the facts stated in that certificate or report and of the authority of the person giving or making the report, and is admissible in evidence without any proof of appointment or signature absent proof to the contrary.

13-327. UTAH CRIMINAL CODE APPLICABLE.

Chapters 1,2,3 and 4 of Title 76 of the Utah Criminal Code relating to principles of construction, jurisdiction, venue, limitations of actions, multiple prosecutions, double jeopardy, burdens of proof, definitions, principles of criminal responsibility, punishments and inchoate offenses apply to any criminal offense defined in this title, except as otherwise provided.

13-328. DEFINITIONS.

All terms used in this part unless specified in the Utah "Alcoholic Beverage Control Act", as amended.

13-329. CANVASSING OR SOLICITING.

A. It shall be unlawful for any person to canvass or solicit for alcoholic beverages by mail, telephone or other manner and the person is hereby prohibited from engaging in such activities, except to the extent that such prohibition may be in conflict with the laws of the United States or the State of Utah.

B. No person shall frequent or loiter in any tavern, cabaret or night club with the purpose of soliciting the purchase of alcoholic drinks. No proprietor or operator of any such establishment shall allow the presence in such establishment of anyone who violates the provisions of this section.

13-330. DISTURBING THE PEACE.

13-331. NOISE.

A. INTENT:

This ordinance is intended to establish minimum standards to reduce the making and creation, or maintenance of such excessive, unnecessary, or unusually loud noises that are prolonged, unusual, or unreasonable in their time, place, or use that affect and are a detriment to public health, comfort, convenience, safety, or welfare of the residents of the City; and to secure and promote the public health, comfort, convenience, safety, welfare, and peace and quiet of the residents of the City.

B. JURISDICTION:

All noise control in this ordinance shall be subject to the direction and control of the Delta City Mayor ("Mayor") and/or the Delta City Code Enforcement Officer. Either City Officer may refer specific cases or incidents to the Delta City Council as he or she deems necessary.

C. DEFINITIONS:

For purposes of this ordinance, unless otherwise defined in other sections of this ordinance, the following terms, phrases, and words shall have the meanings herein given:

DECIBEL: A logarithmic and dimensionless unit of measure often used in describing the amplitude of sound. Decibel is abbreviated dB.

DYNAMIC BRAKING DEVICE: A device used primarily on trucks for the conversion of the engine from an internal combustion engine to an air compressor for the purpose of braking without the use of wheel brakes. (Commonly referred to as "jake brakes".)

EMERGENCY: A situation or occurrence which, in the opinion of the Mayor or Code Enforcement Officer, presents an imminent threat to the health, safety or welfare of any person, place, or property.

EMERGENCY VEHICLE: A motor vehicle used in response to a public calamity or to protect persons or property from an imminent exposure to danger.

EMERGENCY WORK: Work required to restore property to a safe condition following a public calamity or to protect persons or property from an imminent exposure to danger.

MOTOR VEHICLE: Any vehicle that is self-propelled by mechanical power, including, but not limited to, passenger cars, trucks, truck-trailers, semitrailers, campers, motorcycles, minibikes, go-carts, snowmobiles, and racing vehicles.

NOISE: Any unusual or unreasonable sound that is unwanted and causes or tends to cause an adverse psychological or physiological effect on a reasonable person.

NOISE DISTURBANCE: Any unusual or unreasonable sound that annoys or disturbs a reasonable person with normal sensitivities or that injures or endangers the comfort, repose, health, hearing, peace or safety of a reasonable person.

PERSON: A person, firm association, partnership, joint venture, corporation, limited liability company or any other entity, public or private in nature.

PLAINLY AUDIBLE NOISE: Any noise for which the information content of that noise is unambiguously transferred to the listener, including, but not limited to, the understanding of spoken speech, comprehension of whether a voice is raised or normal, or comprehension of musical rhythms.

PROPERTY BOUNDARY: An imaginary line at the ground surface, and its vertical extension that separates the real property owned by one person from that owned by another person.

SOUND: A temporal and spatial oscillation in pressure, or other physical quantity with interval forces that cause compression or rarefaction of the medium and that propagates at finite speed to distant points.

D. HOURS OF PROHIBITION: All prohibitions outlined in this ordinance are regulated only to the hours of 10:00 p.m. to 6:00 a.m. Sunday through Thursday and 11:00 p.m. to 6:00 a.m. Friday through Saturday.

E. GENERAL PROHIBITION OF NOISE:

It shall be unlawful for any person to produce, continue or cause to be produced or continued, a noise or sound that exceeds sixty-five decibels (65 dB), during the hours of prohibition. The noise or sound shall be measured at a distance of at least twenty-five (25) feet from the source of the noise or sound upon public property or within the public right-of-way or at least twenty-five (25) feet away from the property line if upon private property, and shall be measured on a decibel or sound level meter of standard design and quality on the "A" weighing scale.

F. SPECIFIC NOISE PROHIBITIONS:

The following acts are declared to be in violation of this ordinance if done so during the hours of prohibition:

a. Radios, Television Sets, Tape Players, Compact Disc Players, Musical Instruments, and Similar Devices:

Using, operating or permitting the use or operation of any radio receiving set, musical instrument, television, phonograph, drum, or other machine or device for the production or reproduction of sound that is plainly audible beyond the property boundary of the sources.

b. Public Loudspeakers:

The use or operation of a loudspeaker or sound amplifying equipment in a fixed or movable position or mounted upon any vehicle in or upon any street, alley, sidewalk, park, place, or public or private property for the purpose of commercial advertising, giving instructions, directions, talks, addresses, lectures, or transmission of music to any persons or assemblages of persons in violation of the Noise Level, unless a grant of relief has been issued by the Mayor or Code Enforcement Officer.

c. Racing Events:

Permitting any motor vehicle racing event past the hours of prohibition without first obtaining relief from such restrictions.

d. Dynamic Braking Devices:

Operating any motor vehicle in a residential zone with a dynamic braking device engaged, except to avoid imminent danger.

e. Noise from Loud Parties:

It shall be unlawful for any person to make, continue to make or cause, or fail to stop, any excessive, unnecessary, or unusual noise, which annoys, disturbs, injures, or endangers the comfort, health, peace, or safety of others within the limits of Delta City. At parties or large gatherings, if it can be determined who committed the noise violation, that person can individually be held responsible. If it is undetermined who is committing the noise violation, then the person in charge, or the homeowner or renter can be held accountable by being charged with the noise violation.

G. EXEMPTIONS:

The following uses and activities shall be exempt from this ordinance.

- a. Noise of safety signals, warning devices, and emergency pressure relief valves;
- b. Noise resulting from any authorized emergency vehicle when responding to an emergency call or in time of an emergency;
- c. Noise resulting from emergency work;
- d. Noise resulting from lawful fireworks and noisemakers used for celebration of an official holiday;
- e. Any noise resulting from any snow removal equipment or from snowplowing or removal services on public or private streets, or in commercial zones;
- f. Implements of husbandry, which include, but are not limited to, tractors and farm equipment, are exempt from the noise ordinance as long as the equipment is actively being used in a field or on a farm, or in transit to arrive at the field or farm, unless such noise is deemed to be detrimental to the health, safety, and welfare of Delta residents;
- g. Any noise resulting from railway locomotives and cars;
- h. Any noise resulting from medical helicopter operations;
- i. Any noise from which a permit has been granted, so long as the permit holder follows any restrictions set out in the permit; and
- j. Noise resulting from lawful fireworks and explosives when discharged:
 - i. By the public:
 - 1. Between the hours of 7:00 a.m. and 10:00 p.m. on the days allowed by statute;
 - 2. Between the hours of 7:00 a.m. and 11:00 p.m. on the day officially celebrated as and including July 4th and July 24th; and
 - 3. Between the hours of 10:00 p.m. of December 31st and 12:30 a.m. of the following January 1st.

ii. By a licensed display or special effects operator to conduct a professional fireworks display:

1. Between the hours of 7:00 a.m. and 11:00 p.m. on the day officially celebrated as and including July 4th and July 24th;

2. Between the hours of 10:00 p.m. of December 31st and 12:30 a.m. of the following January 1st ; and

3. Between the hours of 7:00 a.m. and 11:00 p.m. for a special event sponsored by the City.

4. Any noise resulting for activities of a temporary duration permitted by law for which a license or permit has been approved by the Mayor or Code Enforcement Officer in accordance with Paragraph H.

H. PERMITS:

a. Applications for a permit for relief from the noise restrictions in this ordinance on the basis of undue hardship may be made to the Mayor or Code Enforcement Officer. Any permit granted by the Mayor or Code Enforcement Officer shall contain all conditions upon which the permit has been granted, including, but not limited to, the effective dates, time of day, location, decibel level or equipment limitation. The requested relief may be granted upon good and sufficient reason showing:

i. That additional time is necessary for the applicant to alter or modify his activity or operation to comply with this ordinance;

ii. That the activity, operating, or noise source will be of a temporary duration and cannot be performed in a way that would comply with this ordinance; and

iii. That no reasonable alternative is available to the applicant.

b. The Mayor or Code Enforcement Officer may prescribe any reasonable conditions or requirements deemed necessary to minimize adverse effects upon the community or the surrounding neighborhood.

c. The sponsor of a special event, including professional fireworks displays, seeking relief from the noise restrictions in this ordinance shall include in its request the following:

i. The date(s), time and duration of the event;

ii. The location of the event;

iii. The sponsor of the event;

iv. Contact information for the event operator;

v. A description of the event and the types of noise-making activities expected;

vi. A map of the event location and the probable location of any stage, speakers, or mixing boards if applicable.

I. PENALTY:

Any person who is found guilty of violating any of the provisions of this ordinance, either by failing to do those acts required herein or by doing a prohibited act, is guilty of a class B misdemeanor, pursuant to Utah Code annotated. The city attorney may initiate legal action, civil or criminal, to abate any condition that exists in violation of this ordinance. In addition to other penalties imposed by a court of competent jurisdiction, any person(s) found guilty of violating this ordinance shall be liable for all expenses incurred by the city in removing or abating any nuisance or noise disturbance.

13-332. FIGHTING – THREATENING.

It is a Class "B" misdemeanor for any person to threaten physical force against another person or to challenge, invite or engage a fight.

13-333. LOUDSPEAKERS.

A. It is an infraction for any person to maintain, operate, connection or suffer or permit to be maintained, operated or connected any calliope or radio apparatus, sound device or any talking machine or loudspeaker attached thereto in such a manner that the loudspeaker or amplifier causes the sound from such radio apparatus or sound device or talking machine to be projected directly therefrom outside of any building, vehicle or out-of-doors, provided that the chief of police may grant a permit to so broadcast any events or happenings of cultural, political, intellectual or religious interest. Every person desiring a permit to so broadcast shall make application, file a statement showing the place where he proposes to broadcast, the times and probably during, and the nature, topics or titles of said broadcast. Said permit shall not be arbitrarily denied and when an application for a permit is denied, the chief of police shall set forth in writing and with particularity the grounds for so denying the application for a permit.

B. Nothing herein contained shall be construed to prevent the operation of a radio apparatus, sound device, amplifier or talking machine used in a reasonable manner by any person within any building, vehicle or structure even though the sound therefrom may be heard on the outside of such building, vehicle or structure, provided that the said apparatus, sound device, amplifier or talking machine shall not project the sound therefrom directly outside of any building, vehicle or out-of-doors, and provided further that no such radio apparatus, sound device, amplifier or talking machine is in any way fastened to or connected with any outside wall or window in any building, vehicle or structure so that sound therefrom is projected outside of such walls or window.

13-334. SALE OR USE OF FIREWORKS UNLAWFUL.

It shall be unlawful for any person, firm, partnership or corporation to offer for sale, expose for resale, sell, possess or use or explode any toy cannon in which explosives are used; the type of balloon which required fire underneath to propel the same, except as used in aviation; firecrackers, torpedoes; skyrockets, Roman candles, bombs or other fireworks of like construction, or any fireworks containing any explosives or inflammable compound or any tablets or other devices commonly used and sold as fireworks contain nitrates, arsenic, mercury, nitroglycerine, phosphorus or any compound containing any of the same or other explosives, or any substance or combination of substances, or articles prepared for the purpose of producing a visible or an audible effect by combustion, explosion, deflagration or detonation, other than aviation and railroad signal light flares, except as in this section provided; provided, further, this section shall not prohibit the use of toy pistols, toy canes, toy guns or sparklers.

13-335. THROWING OBJECTS PROHIBITED.

Every person who willfully or carelessly throws any stone, stick, snowball or other missile whereby any person is hit or any window broken or other property injured or destroyed, or in such manner as to render travel upon the public streets and places dangerous, or in such manner as to frighten or annoy any traveler, is guilty of an infraction.

13-336. VULGAR LANGUAGE.

It shall be a Class "C" misdemeanor for any person to use vulgar, profane or indecent language on any public street or other public place or in any public dance hall, club dance, staking rink or place of business open to public patronage.

13-337. INDECENT EXPOSURE.

A. It shall be a Class "B" misdemeanor for any person over __ years of age to indecently expose his or her body in public.

B. For the purpose of this section:

1. Indecent exposure means:

a. The exposed male genital or the covered male genital shown in a discernibly turgid state.

b. The exposed female genital or female breasts which are not covered with an opaque covering below a point immediately above the top of the nipple (or the breast with only the nipple covered)

2. "Public" means any place open to or frequented by the public or which may be seen from any place open to or frequented by the public and includes private clubs, associations or other places where the public frequents.

13-338. OFFENSIVE, INDECENT ENTERTAINMENT.

It shall be unlawful for any person to hold, conduct or carry on, or to cause to permit to be held, conducted or caused any motion pictures, exhibition or entertainment of any sort which is offensive to decency, or which is of an obscene, indecent or immoral nature, or so suggestive as to be offensive to the moral sense.

13-339. WINDOW PEEPING.

It shall be a Class "C" misdemeanor for any person to look, peer or peep into or be found loitering around or within view of any window within a building occupied as the residence of another with the intent of watching or looking through the window to observe any person undressed, or in the act of dressing and undressing.

13-340. LOOK OUTS FOR ILLEGAL ACTS.

It shall be a Class "B" misdemeanor for any person to act as a guard or lookout for any building, premises or establishment used for gambling, for illegal sale or purchase of intoxicating liquors, or for any person soliciting, offering or engaging in prostitution, gambling or any other form of vice, or illegal act, or any prostitute, on any street or sidewalk. Nor shall any person give any signal intended to, or calculated to warn or give warning of the approach of any peace officer to any person in or about such building or premises or place mentioned herein.

13-341. UNLAWFUL USE OF RESTROOMS.

No person over the age of ____ years shall use the restroom and washrooms designated for the opposite sex.

13-350. PUBLIC PROPERTY – DOCUMENTS.

13-351. PUBLIC PROPERTY.

For the purpose of this part, "public property" means any publicly owned property and includes, but is not limited to any street, park, sidewalk, curb or any part of any public right-of-way devoted to any planting or park like use.

13-352. UNLAWFUL ACTS.

On any public property it is unlawful for any person to:

A. Willfully mark, deface, disfigure, injure, tamper with, displace or remove any building, railing, bench, paving, paving material, water line or any facilities or property and equipment of any public utilities or part or appurtenances thereof, signs, notice of placards, whether temporary or permanent, monuments, stakes, posts or other boundary markers, wall or rock border, or other structures or equipment, facilities or public property or appurtenances whatever, either real or personal.

B. Soil or litter public restrooms and washrooms.

C. Dig and remove any sand, soil, rock, stones, trees, shrubs or plants, downed timber or other wood or materials, or make any excavation by tool, equipment, blasting or other means or agency, unless permission is first obtained.

D. Construct or erect any building or structure of whatever kind whether permanent or temporary in character, any tent, fly or wind breach, or run or string any rope, cord or wire into, upon or across any public property, except with special permit.

E. Damage, cut, carve, burn, transplant or remove any tree or plant or injure the park or pick the flowers or seeds of any tree or plant. No person shall attach any rope, wire or other contrivance to any tree or plant. No person shall dig in or otherwise disturb, or in any other way injure or impair the natural beauty or usefulness of any park area. This subsection shall not apply to any person authorized to perform the act prescribed.

F. Climb any tree or walk, stand or sit on monuments, fountains, railings, fences, planted areas or upon any other property not designed or customarily used for such purposes or to intentionally stand, sit or lie in or upon any street, sidewalk, stairway or crosswalk so as to prevent free passage of person or vehicles passing over, along or across any street, sidewalk, stairway or crosswalk.

G. Drop, throw, place, discard, dump, leave or otherwise deposit any bottles, broken glass, garbage, ashes, paper, boxes, cans, dirt, rubbish, waste, refuse or other trash on any public property except in waste containers provided for that purpose. No such refuse or trash shall be placed in any waters contiguous to any park or planted area or left anywhere on the grounds thereof.

13-370. OFF-ROAD VEHICLES.

13-371. OFF-ROAD VEHICLE USE PROHIBITED – CONDITIONS.

It shall be unlawful for any person to operate any off-road vehicle, as the term is defined in this section, upon real property owned by another person without the express, prior written consent of the land owner or his authorized agents, except such premises as are designed for such use and are held out by the owners thereof to the general public or to designated members of the public for use by such vehicles.

13-372. VEHICLE OWNERS RESPONSIBILITY FOR USE BY OTHERS.

It shall be unlawful for the owner of any off-road vehicle to allow the same to be used by any person under the age of 18 years in any manner which would violate any provisions of the Utah Traffic Code as adopted by Delta City (1981 edition), as amended. It shall be a defense to any charge under this section that the person charged establish in court that he undertook efforts which could reasonably be expected to prevent the use of the off-road vehicle that resulted in the charged violation of this section.

13-373. EXCESSIVE DUST AND NOISE CREATED BY USE OF OFF-ROAD VEHICLES UNLAWFUL.

It shall be unlawful to use an off-road vehicle in a way that creates sufficient dust on neighboring property or on any public streets such that the dust obscures vision or creates an irritation to the occupants or users of such neighboring property or public streets or ways. It shall be unlawful to operate an off-road vehicle in such a way as to create loud or annoying noises in a private place, or in a public place as defined in Section 13-912 after the user or owner of the vehicle has been requested by a peace officer or by the occupant of the property or an agent for the occupant to desist from creating such noise through the use of an off-road vehicle.

13-375. PROPERTY OWNER'S RIGHT TO REGULATE TRAFFIC.

Nothing in this section shall be construed to prevent the owner of real property used for purposes of off-road vehicular travel from legally prohibiting such use or from legally requiring other or different conditions from those specified in this section.

13-376. DEFINITIONS.

As used in this subchapter, the following terms shall have the definitions specified:

A. Off-Road Vehicle

Shall be deemed to include any vehicle which is self-propelled and is designed or constructed to be capable of use off of improved streets or roadways. This definition shall be deemed to include, without limitation, motorcycles; all-terrain cycles or vehicles, including two-, three- and four-wheeled vehicles; sand rails; dune buggies and other vehicles capable of use as off-road vehicles and which are used in such a manner.

B. Owner

Is a person who holds the legal title of a vehicle or in the event a vehicle is subject to an agreement for conditional sale or lease thereof with the right of purchase upon performance of the conditions stated in the agreement and with an immediate right of possession vested in the conditional vendee or lessee, or in the event of a mortgagor of a vehicle is entitled to possession, then such conditional vendee or lessee or mortgagor shall be deemed the owner for the purposes of this section.

13-400. INCHOATE OFFENSES.

13-410. ATTEMPT.

13-411. ATTEMPT – ELEMENTS OF OFFENSE.

A. For the purpose of this part a person is guilty of an attempt to commit any act made an offense by any ordinance of Delta City if, acting with the kind of culpability

otherwise required for the commission of the offense, he engages in conduct constituting a substantial step toward commission of the offense.

B. For purposes of this part, conduct does not constitute a substantial step unless it is strongly corroborative of the actor's intent to commit the offense.

C. No defense to the offense of attempt shall arise:

1. Because the offense attempted was actually committed; or

2. Due to factual or legal impossibility if the offense could have been committed had the attendant circumstances been as the actor believed them to be.

13-412. ATTEMPT – CLASSIFICATION OF OFFENSES.

Criminal attempt to commit:

A. A Class "B" misdemeanor is a Class "C" misdemeanor;

B. A Class "C" misdemeanor is an infraction;

C. An infraction is punishable by a penalty not exceeding one-half the penalty for an infraction.

13-420. CRIMINAL CONSPIRACY.

13-421. CONSPIRACY – ELEMENTS OF OFFENSE.

For purposes of this part a person is guilty of conspiracy when he, intending that conduct constituting an offense under these ordinances whether he specifically intends to violate the ordinances or not, agrees with one or more persons to engage in or cause the performance of such conduct and any one of them commits an overt act in pursuance of the conspiracy, except where the offense is arson or burglary, the overt act is not required for the commission of the conspiracy.

13-422. CONSPIRACY – CLASSIFICATION OF OFFENSES. Conspiracy to commit:

A. A Class "B" misdemeanor is a Class "C" misdemeanor;

B. A Class "C" misdemeanor is an infraction;

C. An infraction is punishable by a penalty not exceeding one-half the penalty for an infraction.

13-430. EXEMPTIONS AND RESTRICTIONS.

13-431. SPECIFIC ATTEMPT OR CONSPIRACY OFFENSE PREVAILS.

Whenever any offense specifically designates or defines an attempt or conspiracy and provides a penalty for the attempt or conspiracy other than provided in this part, the specific offense shall prevail over the provisions of this part.

13-432. CONVICTION OF INCHOATE AND PRINCIPAL OFFENSE PROHIBITED.

No person shall be convicted of both an inchoate and principal offense or of both an attempt to commit an offense and a conspiracy to commit the same offense.

13-500. OFFENSES AGAINST THE PERSON.

13-510. ASSAULT AND RELATED OFFENSES.

13-511. RESERVED.

13-512. ASSAULT.

A. Assault is:

1. An attempt, with unlawful force or violence to do bodily injury to another; or
2. A threat accompanied by a show of immediate force or violence, to do bodily injury to another; or
3. An act, committed with unlawful force or violence that causes bodily injury to another.

B. Assault is a Class "B" misdemeanor.

13-513. through 13-515. RESERVED.

13-516. HARASSMENT.

A. A person is guilty of harassment if, with intent to frighten or harass another, he communicates in writing a threat to commit any violent felony.

B. Harassment is a Class "C" misdemeanor.

13-517. TERRORISTIC THREAT.

A. A person commits terroristic threat if he threatens to commit any offense involving violence with intent:

1. To cause action of any sort by an official or volunteer agency organized to deal with emergencies; or
2. To place a person in fear of imminent serious bodily injury.
3. To prevent or interrupt the occupation of a place of assembly; or an aircraft, automobile or other form of conveyance, but shall not include a facility of public transportation operated by a common carrier.

B. Terroristic threat is a Class "B" misdemeanor.

13-520. RESERVED.

13-530. INTERFERING WITH CUSTODIAL RIGHTS OR PERSONAL LIBERTY.

13-531. RESERVED.

13-532. RESERVED.

13-533. CUSTODIAL INTERFERENCE.

A. A person, whether a parent or other, is guilty of custodial interference if, without good cause, he takes, entices, conceals or detains a child under the age of sixteen from his parent, guardian or other lawful custodian:

1. Knowing he has no legal right to do so; and

2. With intent to hold the child for a period substantially longer than any visitation or custody period previously awarded by a court of competent jurisdiction.

B. A person, whether a parent or other, is guilty of custodial interference if, having actual physical custody of a child under the age of sixteen pursuant to a judicial award of any court of competent jurisdiction which grants to another person visitation or custody rights, and without good cause, he conceals or detains the child with the intent to deprive the other person of his lawful visitation or custody rights.

C. A person is guilty of custodial interference if without good cause he takes, entices, conceals or detains an incompetent or other person under the age of sixteen who has been committed by authority of law to the custody of another person or institution, knowing he has no legal right to do so.

D. Custodial interference is a Class "B" misdemeanor.

13-534. UNLAWFUL DETENTION.

A. A person commits unlawful detention if he knowingly restrains another unlawfully so as to interfere substantially with his liberty.

B. Unlawful detention is a Class "B" misdemeanor.

13-540. SEXUAL OFFENSES.

A. A male person commits unlawful intercourse if he has sexual intercourse with a female, not his wife, who is under sixteen years of age when at the time of intercourse the male is no more than three years older than the female.

B. Unlawful sexual intercourse is a Class "B" misdemeanor. Evidence that the actor was not more than three years older than the victim at the time of intercourse shall be raised by the defendant.

13-542. RESERVED.

13-543. SODOMY.

A. A person commits sodomy when he engages in any sexual act involving the genitals of one person and the mouth or anus of another person, regardless of the sex of either participant.

B. Sodomy is a Class "B" misdemeanor.

13-544. RESERVED.

13-545. RESERVED.

13-546. RESERVED.

13-547. MARRIED PERSONS' CONDUCT EXEMPT – LIMITATIONS OF ACTIONS – "PENETRATION" OR "TOUCHING" SUFFICIENT TO CONSTITUTE OFFENSE.

A. The provisions of this part shall not apply to conduct between persons married to each other; provided, however, that for purposes of this part, persons living apart pursuant to a lawful order of a court of competent jurisdiction shall not be deemed to be married.

B. No prosecution may be instituted or maintained under this part unless the alleged offense was brought to the notice of public authority:

1. Within three months of its occurrence; or

2. Where the alleged victim was less than eighteen years of age or otherwise incompetent to make complaint, within three months after a parent, guardian or other competent person specifically interested in the victim, other than the alleged offender, learned of the offense.

C. In any prosecution for unlawful sexual intercourse, or sodomy, any sexual penetration or, in the case of sodomy, any touching, however slight, is sufficient to constitute the offense.

13-600. OFFENSES AGAINST PROPERTY.

13-611. DEFINITIONS. For purposes of this chapter:

A. "Property" means any form of real property or tangible personal property which is capable of being damaged or destroyed and includes a habitable structure.

B. "Habitable structure" means any building, vehicle, trailer, railway car, aircraft or watercraft used for lodging or an assembling of persons or conducting business whether any person is actually present or not.

C. "Property" is that of another, if anyone other than the actor has a possessory or proprietary interest in any portion thereof.

D. "Value" means:

1. The market value of the property, if totally destroyed, at the time and place of the offense, or where cost of replacement exceeds the market value; or

2. Where the market value cannot be ascertained, the cost of repairing or replacing the property within a reasonable time following the offense.

3. If the property damaged has a value that cannot be ascertained by the criteria set forth in subsections 1 and 2 above, the property shall be deemed to have a value of \$50.00.

13-612. ARSON.

A. A person is guilty of arson if, by means of fire or explosives, a person unlawfully and intentionally damages the property of another.

B. Arson is a Class "B" misdemeanor if the damage caused exceeds \$250.00 and is a Class "C" misdemeanor if the damage is less than \$249.99.

13-613. RESERVED.

13-614. RECKLESS BURNING.

A. A person is guilty of reckless burning if he damages the property of another by reckless use of fire or by causing an explosion.

B. Reckless burning is a Class "B" misdemeanor if the damage to property exceeds \$500.00 in value; and a Class "C" misdemeanor if the damage to property exceeds \$50.00 in value. Any other violation under this section shall constitute an infraction.

13-615. RESERVED.

13-616. CRIMINAL MISCHIEF.

A. A person commits criminal mischief if:

1. He intentionally damages, defaces or destroys the property of another;

2. He recklessly or willfully shoots or propels a missile or other object at or against a motor vehicle, bus, airplane, boat, locomotive, train, railway car or caboose, whether moving or standing.

B. Criminal mischief is defined herein as a Class "B" misdemeanor if the actor's conduct causes or is intended to cause pecuniary loss in excess of \$250.00 and a Class "C" misdemeanor if the actor's conduct causes or is intended to cause loss of less than \$250.00.

13-620. BURGLARY AND CRIMINAL TRESPASS.

13-621. DEFINITIONS. For purpose of this part:

A. A person "enters or remains unlawfully" in or upon premises when the premises or any portion thereof, at the time of the entry or remaining, are not open to the public and when the actor is not otherwise licensed or privileged to enter or remain on the premises or such portion thereof.

13-622. RESERVED.

13-623. RESERVED.

13-624. RESERVED.

13-625. MANUFACTURE OR POSSESSION OF INSTRUMENT FOR BURGLARY OR THEFT.

Any person who manufactures or possesses any instrument, tool, device, article or other thing adapted, designed or commonly used in advancing or facilitating the commission of any offense under circumstances manifesting an intent to use or knowledge that some person intends to use the same in the commission of a burglary or theft is guilty of a Class "B" misdemeanor.

13-626. CRIMINAL TRESPASS.

A. For purposes of this section "enter" means intrusion of the entire body.

B. A person is guilty of criminal trespass if under circumstances not amounting to burglary as defined in sections § 76-6-202 and § 76-6-204 of the Utah Code:

1. He enters or remains unlawfully on property; and

(a) intends to cause annoyance or injury to any person thereon or damage to any property thereon; or

(b) intends to commit any crime, other than theft or a felony;

(c) is reckless as to whether his presence will cause fear for the safety of another.

2. Knowing his entry or presence is unlawful, he enters or remains on property as to which notice against entering is given by:

(a) personal communication to the actor by the owner or someone with apparent authority to act for the owner; or

(b) fencing or other enclosure obviously designed to exclude intruders; or

(c) posting of signs reasonably likely to come to the attention of intruders.

C. A violation of subsection B-1 above is a Class "C" misdemeanor unless it was committed in a dwelling, in which event it is a Class "B" misdemeanor. A violation of subsection B-2 is an infraction.

D. It is a defense to prosecution under this section:

1. That the property was open to the public when the actor entered or remained; and

2. The actor's conduct did not substantially interfere with the owner's use of the property.

13-630. RESERVED.

13-640. THEFT.

13-640-1. DEFINITIONS. For the purpose of this part:

A. "Property" means anything of value, including real estate, tangible and intangible personal property, captured or domestic animals and birds, written instruments or other writings representing or embodying rights concerning real or personal property, labor, services or otherwise containing anything of value to the owner, commodities of a public utility nature such as telecommunications, gas, electricity, steam or water, and trade secrets, meaning the whole or any portion of any scientific or technical information, design, process, procedure, formula or invention which the owner thereof intends to be available only to persons selected by him.

B. "Obtain" means, in relation to property, to bring about a transfer of possession or of some other legally recognized interest in property, whether to the obtainer or another; in relation to labor services, to secure performance thereof; and in relation to a trade secret, to make any facsimile, replica, photograph or other reproduction.

C. "Purpose to deprive" means to have the conscious object:

1. To withhold property permanently or for so extended a period or to use under such circumstances that a substantial portion of its economic value, or of the use and benefit thereof, would be lost; or

2. To restore the property only upon payment or a reward or other compensation;

3. To dispose of the property under circumstances that make it unlikely that the owner will recover it.

D. "Obtain or exercise unauthorized control" means, but is not necessarily limited to, conduct heretofore defined or known as common law larceny by trespassory taking, larceny by conversion, larceny by bailee and embezzlement.

E. "Deception" occurs when a person intentionally:

1. Creates or confirms by words or conduct an impression of law or fact that is false and that the actor does not believe to be true and that it is likely to affect the judgment or another in the transaction; or

2. Fails to correct a false impression of law or fact that the actor previously created or confirmed by words or conduct that is likely to affect the judgment of another and that the actor does not now believe to be true; or

3. Prevents another from acquiring information likely to affect his judgment in the transactions; or

4. Sells or otherwise transfers or encumbers property without disclosing a lien, security interest, adverse claim or other legal impediment to the enjoyment of the property, whether the lien, security interest, claim or impediment is or is not valid or is or is not a matter of official record; or

5. Promises performance that is likely to affect the judgment of another in the transaction, which performance that actor does not intend to perform or knows will not be provided, however, that failure to perform the promise in issue without other evidence of intent or knowledge is not sufficient proof that the actor did not intend to perform or knew the promise would not be performed.

13-640-2. PRESUMPTIONS AND DEFENSES.

The following presumption shall be applicable to this part:

A. Possession of property recently stolen, when no satisfactory explanation of such possession is made, shall be deemed prima facie evidence that the person in possession stole the property.

B. It is not defense under this part that the actor has an interest in the property or service stolen if another person also has an interest that the actor is not entitled to infringe, provided an interest in property for purposes of this subsection shall not include a security interest for the repayment of a debt or obligation.

C. It is a defense under this part that the actor:

1. Acted under an honest claim of right to the property or service involved; or

2. Acted in the honest belief that he had the right to obtain or exercise control over the property or service as he did; or

3. Obtained or exercised control over the property or service honestly believing that the owner, if present, would have consented.

13-640-3. THEFT – EVIDENCE TO SUPPORT ACCUSATION.

Conduct denominated theft in this part constitutes a single offense embracing the separate offenses as those theretofore known as larceny, larceny by trick, larceny by bailees, embezzlement, false pretense, extortion, blackmail and receiving stolen property. An accusation of theft may be supported by evidence that it was committed in any manner specified in sections 13-640-4 through 13-640-11 of the Revised Ordinances of Delta City (1981 edition), as amended, subject to the power of the court to ensure a fair trial by granting a continuance or other appropriate relief where the conduct of the defense would be prejudiced by lack of fair notice or by surprise.

13-640-4. THEFT – ELEMENTS.

A person commits theft if he obtains or exercises unauthorized control over the property of another with a purpose to deprive him thereof

13-640-5. THEFT BY DECEPTION.

A. A person commits theft if he obtains or exercises control over property of another by deception and with a purpose to derive him thereof.

B. Theft by deception does not occur, however, when there is only falsity as to matters having no pecuniary significance, or puffing by statements unlikely to deceive ordinary persons in the group addressed. "Puffing" means an exaggerated commendation of wares or worth in communications addressed to the public or to a class or group.

13-640-6. THEFT BY EXTORTION.

A. A person is guilty of theft if he obtains or exercises control over the property of another by extortion and with a purpose to deprive him thereof.

B. As used in this section, extortion occurs when a person threatens to:

1. Cause physical harm in the future to the person threatened or to any other person or to property at any time; or

2. Subject the person threatened or any other person to physical confinement or restraint; or

3. Engage in other conduct constituting a crime; or

4. Accuse any person of a crime or expose him to hatred, contempt or ridicule; or

5. Reveal any information sought to be concealed by the person threatened; or
6. Testify or provide information or withhold testimony or information with respect to another's legal claim or defense; or
7. Take action as an official against anyone or anything, or withhold official action, or cause such action or withholding; or
8. Bring about or continue a strike, boycott or other similar collective action to obtain property which is not demanded or received for the benefit of the group which the actor purports to represent; or
9. Do any other act which would not in itself substantially benefit him but which would harm substantially any other person with respect to that person's health, safety, business, calling, career, financial condition, reputation or personal relationships.

13-640-7. THEFT OR LOST, MISLAID OR MISTAKENLY DELIVERED PROPERTY.

A person commits theft when:

- A. He obtains property of another which he knows to have been lost or mislaid, or to have been delivered under a mistake as to the identity of the recipient or as to the nature or amount of the property, without taking reasonable measures to return it to the owner; and
- B. He has the purpose to deprive the owner of the property when he obtains the property or at any time prior to taking the measures designated in paragraph A.

13-640.8. RECEIVING STOLEN PROPERTY – DUTIES OF PAWNBROKERS.

- A. A person commits theft if he receives, retains or disposes of the property of another knowing that it has been stolen, or believing that it probably has been stolen, or who conceals, sells, withholds or aids in concealing, selling or withholding any such property from the owner, knowing the property to be stolen, with the purpose to deprive the owner thereof.
- B. The knowledge or belief required for paragraph A is presumed in the case of an actor who:
 1. Is found in possession or control of other property stolen on a separate occasion; or
 2. Has received other stolen property within the year preceding the receiving offense charged; or
 3. Being a dealer in property of the sort received, retained or disposed, acquires it for a consideration which he knows is far below its reasonable value.

4. Every pawnbroker or person who has or operates a business dealing in or collecting used or secondhand merchandise or personal property, and every agent, employee or representative of the pawnbroker or person who buys, received or obtains property shall require the seller or person delivering the property to certify, in writing, that he has the legal rights to sell the property. If the value given for the property exceeds \$20.00, the pawnbroker or person shall also require the seller or person delivering the property to obtain a legible fingerprint, preferably of the right thumb, at the bottom of the certificate next to his signature or any other positive form of identification:

(a) Every pawnbroker or person who has or operates a business dealing in or collecting used or secondhand merchandise or personal property, and every agent, employee or representative of the pawnbroker or person who fails to comply with the requirements of this paragraph number four shall be presumed to have bought, received or obtained the property knowing it to have been stolen or unlawfully obtained. This presumption may be rebutted by proof.

(b) When in a prosecution under this section it appears from the evidence that the defendant was a pawnbroker or a person who has or operates a business dealing in or collecting used or secondhand merchandise or personal property, or was an agent, employee or representative of a pawnbroker or person, that the defendant bought, received, concealed or withheld the property without requiring the person from whom he bought, received or obtained the property to sign the certificate required in paragraph 4 and in the event the transaction involves an amount exceeding \$20.00 also place his legible print, preferably the right thumb, on the certificate, then the burden shall be upon the defendant to show that the property bought, received and obtained was not stolen.

(c) This section shall not apply to bona fide religious organizations accepting donations of second hand or used merchandise unless such religious or charitable organizations or their agents have actual knowledge that such merchandise or property was stolen.

C. As used in this section:

1. "Received" means acquiring possession, control or title or lending on the security of the property;

2. "Dealer" means a person in the business of buying or selling goods.

13-640-9. THEFT OF SERVICES.

A. A person commits theft if he obtains by deception, threat, force, or any other means designed to avoid the due payment therefor, services which he knows are available only for compensation.

B. A person commits theft if, having control over the disposition of services of another, to which he knows he is not entitled, he diverts such services to his own benefit or to the benefit of another who he knows is not entitled thereto.

C. As used in this section "services" includes, but is not necessarily limited to, labor, professional service, public utility and transportation services, restaurant, hotel, motel, tourist cabin, rooming house and like accommodations, the supplying of equipment, tools, vehicles or trailers for temporary use, telephone or telegraph service, gas, electricity, water or stream and the like, admission to entertainment, exhibitions, sporting events or other events for which a charge is made.

13-640-10. THEFT BY PERSON HAVING CUSTODY OF PROPERTY PURSUANT TO REPAIR OR RENTAL AGREEMENT.

A person is guilty of theft if:

A. Having custody of property pursuant to an agreement between himself or another and the owner thereof whereby the actor or another is to perform for compensation a specific service for the owner involving the maintenance, repair or use of such property, he intentionally uses or operates it, without the consent of the owner, for his own purposes in a manner constituting a gross deviation from the agreed purpose; or

B. Having custody of any property pursuant to a rental or lease agreement where it is to be returned in a specified manner or at a specified time, intentionally fails to comply with the terms of the agreement concerning return so as to render such failure a gross deviation from the agreement.

13-640.11. RESERVED.

13-640-12. THEFT – CLASSIFICATION OF OFFENSES.

Theft of property and services as provided in this chapter shall be punishable as a class B misdemeanor.

13-640-13. RETAIL THEFT.

A. Definitions as used in this chapter.

1. "Retail value" means the merchant's stated or advertised price of the merchandise;
2. "Retail mercantile establishment" means any place where merchandise is displayed, held or offered for sale to the public;
3. "Merchandise" means any personal property displayed, held or offered for sale by a merchant;

4. "Merchant" means an owner or operator of any retail mercantile establishment where merchandise is displayed, held or offered for sale and includes the merchant's employees, servants or agents;
5. "Premises of a retail mercantile establishment" includes, but is not limited to, the retail mercantile establishment; any common use areas in shopping centers and all parking lots or areas set aside for the benefit of those patrons of the retail mercantile establishment;
6. "Minor" means any unmarried person less than 18 years of age;
7. "Shopping cart " means those push carts of the types which are commonly provided by grocery stores, drug stores, or other mercantile establishments or markets for the use of the public in transporting commodities in stores and markets from the store to a place outside the store;
8. "Peace officer" means an officer as described in Section 77-10-6, U.C.A. (1953), as amended, including a member of the highway patrol; and
9. "Under-ring" means to cause the cash register or other sales recording device to reflect less than the retail value of the merchandise.

B. A person commits the offense of retail theft when he knowingly:

1. Takes possession of, conceals, carries away, transfers or causes to be carried away or transferred, any merchandise displayed, held, stored or offered for sale in a retail mercantile establishment with the intention of depriving the merchant permanently of the possession, use or benefit of such merchandise without paying the retail value of such merchandise; or
2. Alters, transfers or removes any label, price tag, marking, indicia of value or any other markings which aid in determining the value of any merchandise displayed, held, stored or offered for sale, in a retail mercantile establishment and attempts to purchase such merchandise personally or in consort with another at less than the retail value with the intention of depriving the merchant of the retail value of such merchandise; or
3. Transfers any merchandise displayed, held, stored or offered for sale in a retail mercantile establishment from the container in or on which such merchandise is displayed to any other container with the intention of depriving the merchant of the retail value of such merchandise; or
4. Under-rings with the intention of depriving the merchant of the retail value of the merchandise; or
5. Removes a shopping cart from the premises of a retail mercantile establishment with the intent of depriving the merchant of the possession, use or benefit of such cart.

C. Any merchant who has probable cause to believe that a person has committed retail theft may detain such person, on or off the premises of a retail mercantile establishment, in a reasonable manner and for a reasonable length of time for all or any of the following purposes:

1. To make reasonable inquiry as to whether such person has in his possession unpurchased merchandise and to make reasonable investigation of the ownership of such merchandise;
2. To request identification;
3. To verify such identification;
4. To make a reasonable request of such person to place or keep in full view any merchandise such individual may have removed, or which the merchant has reason to believe he may have removed, from its place of display or elsewhere, whether for examination, purchase or for any other reasonable purpose;
5. To inform a peace officer of the detention of the person and surrender that person to the custody of a peace officer;
6. In the case of a minor, to inform a peace officer, the parents, guardian or other private person interested in the welfare of that minor immediately, if possible, of this detention and to surrender custody of such minor to such person.

A merchant may make a detention as permitted herein off the premises of a retail mercantile establishment only if such detention is pursuant to an immediate pursuit of such person.

D. In any action for false arrest, false imprisonment, unlawful detention, defamation of character, assault, trespass, or invasion of civil rights brought by any person detained by the merchant, it shall be a defense to such action that the merchant detaining such person had probable cause to believe that the person had committed retail theft and that the merchant acted reasonably under all circumstances.

E. Photographs of items allegedly taken or converted – admissibility – procedure.

1. As used in this section “items” means goods or merchandise, as defined under subsection 13-640-13.B. above.

2. In any prosecution for a violation of 13-640-13.B., photographs of the items alleged to have been taken or converted are competent evidence of the items and are admissible in any proceeding, hearing, or trial as if the items themselves were introduced as evidence.

3. The photographs shall bear a written description of the items alleged to have been taken or converted, the name of the owner, or the store, establishment, or library, as

appropriate, where the alleged offense occurred, the name of the accused, the name of the arresting peace officer, the date of the photograph and the name of photographer.

4. The writing shall be made under oath by the arresting peace officer and the photographs identified by the signature of the photographer. Upon the filing of the photograph and writing with the authority or court holding the items as evidence, they shall be returned to their owner, or returned to the proprietor or manager of the store or establishment, or to an employee of the library, as is appropriate.

F. A violation of this chapter shall be punished in accordance with Section § 76-6-412(1), Utah Code Annotated (1953), amended.

13-650. FRAUD.

13-650-1. FORGERY – “WRITING” DEFINED.

A. A person is guilty of forgery, if, with purpose to defraud anyone, or with knowledge that he is facilitating a fraud to be perpetrated by anyone, he:

1. Alters any writing of another without his authority or utters any such altered writing; or

2. Makes, completes, executes, authenticates, issues, transfers, publishes, or utters any writing so that the writing, completion, execution, authentication, issuance, transference, publication or utterance purports to be the act of another, whether the person is existent or nonexistent, or purports to have been executed at a time or place or in a numbered sequence other than was in fact the case, or to be a copy of an original when no such original existed.

B. As used in this section “writing” includes printing or any other method of recording information, checks, tokens, stamps, seals, credit cards, badges, trademarks, money and any other symbols of value, right, privilege or identification.

C. Forgery is a class B misdemeanor.

13-650-2. POSSESSION OF FORGED WRITING OR DEVICE FOR WRITING.

Any person who, with intent to defraud, knowingly possesses any writing that is a forgery as defined in section 13-650-1, or who with intent to defraud knowingly possesses any device for making any such writing, is guilty of a class B misdemeanor.

13-650-3. FRAUDULENT HANDLING OF RECORDABLE WRITINGS.

Any person who, with intent to deceive or injure anyone, falsifies, destroys, removes or conceals any will, deed, mortgage, security instrument or other writing for which the law

provides public recording is guilty of fraudulent handling of recordable writings which is a class B misdemeanor.

13-650-4. TAMPERING WITH RECORDS.

A. Any person who, having no privilege to do so, knowingly falsifies, destroys, removes or conceals any writing, other than the writings enumerated in section 13-650-3, or record, public or private, with intent to deceive or injure any person or to conceal any wrongdoing is guilty of tampering with records.

B. Tampering with records is a class B misdemeanor.

13-650-5. ISSUING A BAD CHECK OR DRAFT – PRESUMPTION.

A. Any person who issues or passes a check or draft for the payment of money, for the purpose of obtaining from any person, firm, partnership or corporation any money, property or other thing of value or paying for any services, wages, salary, labor or rent, knowing it will not be paid by the drawee and payment is refused by the drawee, is guilty of issuing a bad check or draft.

For the purposes of this subsection, a person who issues a check or draft for which payment is refused by the drawee is presumed to know the check or draft would not be paid if he had no account with the drawee at the time of issue.

B. Any person who issues or passes a check or draft for the payment of money, for the purpose of obtaining from any person, firm, partnership, or corporation, any money, property, or other thing of value or paying for any services, wages, salary, labor or rent, payment of which check or draft is legally refused by the drawee, is guilty of issuing a bad check or draft if he fails to make good and actual payment to the payee in the amount of the refused check or draft within 14 days of his receiving actual notice of the check or draft's non-payment.

C. An offense of issuing a bad check or draft is a class B misdemeanor.

13-650-6. FRAUDULENT USE OF A CREDIT CARD – "CREDIT CARD" DEFINED.

§§ 76-6-506 through 76-6-506.3 of Utah Code Annotated (1953), as amended, are hereby incorporated herein by reference.

13-650-7. DECEPTIVE BUSINESS PRACTICES – DEFINITIONS – DEFENSE.

A. A person is guilty of a class B misdemeanor if, in the course of business, he:

1. Uses or possesses for use a false weight or measure, or any other device for falsely determining or recording any quality or quantity; or

2. Sells or offers or exposes for sale or delivers less than the represented quantity or quality of any commodity or service; or

3. Takes or attempts to take more than the represented quantity of any commodity or service when as buyer he furnishes the weight or measure; or

4. Sells, offers or exposes for sale adulterated or mislabeled commodities

(a) "Adulterated" means varying from the standard of composition or quality prescribed, or pursuant to any statute or ordinance providing criminal penalties for such variance, or set by established commercial usage.

(b) "Mislabeled" means varying from the standard of truth or disclosure in labeling prescribed by or pursuant to any statute or ordinance providing criminal penalties for such variance, or set by established commercial usage.

5. Makes a false or misleading statement in any advertisement addressed to the public or to a substantial segment thereof for the purpose of promoting the purchase or sale of property or services.

6. Offers, by advertising or other means of communication, to the public or a substantial number of persons, property, or services as part of the scheme or plan, with intent not to sell or provide the advertised property or services:

(a) At the price which he offered them; or

(b) In a quantity sufficient to meet the reasonably expected public demand, unless the quantity is specifically stated in the advertisement; or

(c) At all.

B. It is affirmative defense to prosecution under this section that the defendant's conduct was not knowing or reckless.

13-650-8. BRIBERY OF OR RECEIVING BRIBE BY PERSON IN THE BUSINESS OF SELECTION, APPRAISAL OR CRITICISM OF GOODS OR SERVICES.

A. A person is guilty of a class B misdemeanor when, without the consent of the employer or principal, contrary to the interests of the employer or principal:

1. He confers, offers or agrees to confer upon the employee, agent or fiduciary of an employer or principal any benefit with the purpose of influencing the conduct of the employee, agent or fiduciary in relating to his employer's or principal's affairs; or

2. He, as an employee, agent or fiduciary of an employer or principal solicits, accepts or agrees to accept any benefit from another upon an agreement or understanding that such benefit will influence his conduct in relation to his employer's or principal's affairs; provided that this section does not apply to inducements made or accepted solely for the purpose of causing a change in employment by an employee, agent or fiduciary.

B. A person is guilty of violation of this section if he holds himself out to the public as being engaged in the business of making disinterested selection, appraisal or criticism of goods or services and he solicits, accepts or agrees to accept any benefit to influence his selection, appraisal or criticism.

13-650-9. RESERVED.

13-650-10. RESERVED.

13-650-11. DEFRAUDING CREDITORS.

A person is guilty of a class B misdemeanor if:

A. He destroys, removes, conceals, encumbers, transfers or otherwise deals with property subject to a security interest with a purpose to hinder enforcement of that interest; or

B. Knowing that proceedings have been or are about to be instituted for the appointment of a person entitled to administer property for the benefit of creditors, he:

1. Destroys, removes, conceals, encumbers, transfers or otherwise deals with any property with a purpose to defeat or obstruct the claim of any creditor, or otherwise to obstruct the operation of any law relating to administration or property for the benefit of creditors; or

2. Presents to any creditor or to any assignee for the benefit of creditors, orally or in writing, any statement relating to the debtor's estate, knowing that a material part of such statement is false.

13-650-12. RESERVED.

13-650-13. RESERVED.

13-650-14. RESERVED.

13-650-15. USING OR MAKING SLUGS.

A. A person is guilty of a class B misdemeanor if:

1. With the purpose to defraud the supplier of property or a service offered or sold by means of a coin machine, he inserts, deposits or uses a slug in that machine; or

2. He makes, possesses or disposes of a slug with the purpose of enabling a person to use it frequently in a coin machine.

B. As used in this section:

1. "Coin machine" means any mechanical or electronic device or receptacle designed to receive a coin or bill of a certain denomination, or a token made for the purpose, and,

in return for the insertion or deposit thereof, automatically to offer, provide, assist in providing or permit the acquisition of property or a public or private service.

2. "Slug" means any object which, by virtue of its size, shape or other quality, is capable of being inserted, deposited or otherwise used in a coin machine as an improper substitute for a genuine coin, bill or token.

13-650-16. RESERVED

13-650-17. RESERVED

13-650-18. CRIMINAL SIMULATION.

A. A person is guilty of criminal simulation if, with intent to defraud another:

1. He makes or alters an object in whole or in part so that it appears to have value because of age, antiquity, rarity, source or authorship that it does not have; or

2. He sells, passes or otherwise utters an object so made or altered; or

3. He possesses an object so made or altered with intent to sell, pass or otherwise utter it; or

4. He authenticates or certifies an object so made or altered as genuine or as different from what it is.

B. Criminal simulation is punishable as a class B misdemeanor.

13-650-19. RESERVED.

13-650.20. RESERVED.

13-650.21 .FALSE OR FRAUDULENT INSURANCE CLAIM – PUNISHMENT AS FOR THEFT.

Every person who presents or causes to be presented, any false or fraudulent claim, or any proof in support of any claim, upon such claim, upon any contract of insurance for payment of any loss, or who prepares, makes or subscribes any account, certificate of survey, affidavit or proof of loss, or other book, paper or writing, with intent to present or use the same, or to allow it to be presented or used, in support of any such claim is punishable as in the manner prescribed for theft of property of like value.

13-700. OFFENSES AGAINST THE FAMILY.

13-710. MARITAL VIOLATIONS.

13-711. RESERVED.

13-712. RESERVED.

13-713. RESERVED.

13-714. FORNICATION.

A. Any unmarried person who shall voluntarily engage in sexual intercourse with another is guilty of fornication.

B. Fornication is a class B misdemeanor.

13-800. OFFENSES AGAINST GOVERNMENT.

13-810. CORRUPT PRACTICES.

13-811. DEFINITIONS. For the purposes of this chapter:

A. "Public servant" means any officer or employee of Delta City, including judges, consultants, jurors and persons otherwise performing a government function. A person is considered a public servant upon his election, appointment or other designation as such, although he may not yet officially occupy that position.

B. "Party official" means any person holding any post in a political party whether by election, appointment or otherwise.

C. "Pecuniary benefit" means any advantage in the form of money, property, commercial interest or anything else, the primary significance of which is economic gain; it does not include economic advantage applicable to the public generally, such as tax reduction or increased prosperity generally.

D. A person is a candidate for electoral office upon his filing or being nominated as a candidate for any municipal office.

13-812. CAMPAIGN CONTRIBUTIONS NOT PROHIBITED.

Nothing in this chapter shall be construed to prohibit the giving or receiving of campaign contributions made for the purpose of defraying the costs of a political campaign. No person shall be convicted of any offense solely on the evidence that a campaign contribution was made and that an appointment or nomination was subsequently made by the person to whose campaign or political party the contribution was made.

13-813. BRIBERY TO INFLUENCE OFFICIAL OR POLITICAL ACTIONS.

A person is guilty of a class B misdemeanor if:

A. He promises, offers or gives any pecuniary benefit to another with the purpose of influencing the other's action, decision, opinion, recommendation, vote, nomination or other exercise of discretion as a public servant, party official or voter; or

B. Being a public servant, party official, candidate for electoral office, or voter, he solicits, accepts or agrees to accept any pecuniary benefit from another, knowing the other person's purpose is as described above in paragraph A of this section.

13-814. TREATS TO INFLUENCE OFFICIAL OR POLITICAL ACTION.

A. A person is guilty of a class B misdemeanor if he threatens any harm to a public servant, party official or voter with a purpose of influencing his action, decision, opinion, recommendation, nomination, vote or other exercise of discretion.

B. "Harm," as used in this section, means any disadvantage or injury, pecuniary or otherwise including disadvantage or injury to any other person or entity is whose welfare the public servant, party official or voter is interested.

13-815. RECEIVING BRIBE OR BRIBERY BY PUBLIC SERVANT. A person is guilty of a class B misdemeanor if:

A. Being a public servant, he solicits, accepts or agrees to accept any pecuniary benefit in return for having given a decision, opinion, recommendation, nomination or vote otherwise exercised in his discretion or for having violated his duty; or

B. He promises, offers or gives any pecuniary benefit, acceptance of which would be a violation of paragraph A.

13-816. RECEIVING BRIBES OR BRIBERY FOR ENDORSEMENT OF PERSON AS A PUBLIC SERVANT.

A person is guilty of a class B misdemeanor if:

A. He solicits, accepts, agrees to accept for himself, another person, or a political party, money or any other pecuniary benefit as compensation for his endorsement, nomination, appointment, approval or disapproval of any person for a position as a public servant or for the advancement of any public servant; or

B. He knowingly gives, offers or promises any pecuniary benefit prohibited by paragraph A.

13-817. ALTERATION OF PROPOSED ORDINANCE OR RESOLUTION.

Every person who fraudulently alters the draft of any ordinance or resolution which has been presented to the City Council of any municipality to be passed or adopted, with intent to procure it being passed or adopted by the City Council or signed by the Mayor in language different from that intended by the City Council, is guilty of a class B misdemeanor.

13-818. ALTERATION OF ENGROSSED COPY OF ORDINANCE OR RESOLUTION. Every person who fraudulently alters any ordinance or resolution which has been passed

or adopted by the City Council with intent to have it printed or published as part of the ordinances or resolutions of Delta City in language different from that in which it was passed or adopted by the City Council, is guilty of a class B misdemeanor.

13-819. FAILURE OF MEMBER OF CITY COUNCIL TO DISCLOSE INTEREST IN ORDINANCE OR RESOLUTION.

Every member of the City Council who has a personal or private interest in any ordinance or resolution that may benefit such member in any measure foreseeable by that member in a way not benefiting the public generally proposed or pending before the City Council and does not disclose the fact to the City Council and votes thereon without such disclosure is guilty of a class B misdemeanor.

13-820. ABUSE OF OFFICE.

13-821. OFFICIAL MISCONDUCT – UNLAWFUL ACTS BASED ON “INSIDE” INFORMATION.

A public servant is guilty of a class B misdemeanor if, knowing that official action is contemplated or in reliance on information which he has acquired by virtue of his office or from another public servant which information has not been made public, he:

- A. Acquires or divests himself of a pecuniary interest in any property, transaction or enterprise which may be affected by such action or information; or
- B. Speculates or wagers on the basis of such action or information; or
- C. Knowingly aids another to do any of the foregoing.

13-823. UNOFFICIAL MISCONDUCT.

A. A person is guilty of unofficial misconduct if he exercises or attempts to exercise any of the functions of a public office when:

- 1. He has not taken and filed the required oath of office; or
- 2. He has failed to execute and filed the required bond; or
- 3. He has not been elected or appointed to office; or
- 4. He exercises any of the functions of his office after his term has expired and the successor has been elected or appointed and has qualified, or after his office has been legally removed; or
- 5. He knowingly withholds or retains from his successor in office or other person entitled to the official seal or any official records, papers, documents or other writings appertaining or belonging to his office or mutilates or destroys or takes away the same.

B. Unofficial misconduct is a class B misdemeanor.

13-830. OBSTRUCTING GOVERNMENTAL OPERATIONS.

13-830-1. INTERFERENCE WITH PUBLIC SERVANTS.

A person is guilty of a class B misdemeanor if he uses force, violence or intimidation or engages in any other unlawful act with a purpose to interfere with a public servant performing or purporting to perform an official function.

13-830-2. PICKETING OR PARADING IN OR NEAR COURT.

A person is guilty of a class B misdemeanor if he pickets or parades in or near a building which houses a court of Delta City with intent to obstruct access to that court or to affect the outcome of a case pending before that court.

13-830-3. PREVENTION OF CITY COUNCIL OR PUBLIC SERVANT FROM MEETING OR ORGANIZING.

A person is guilty of a class B misdemeanor if he intentionally and by force or fraud:

- A. Prevents the Delta City Council or any of the members thereof, from meeting or organizing; or
- B. Prevents any other public servant from meeting or organizing to perform a lawful governmental function.

13-830-4. DISTURBING CITY COUNCIL OR OFFICIAL MEETING.

A. A person is guilty of a class B misdemeanor if:

- 1. He intentionally disturbs the City Council while in session; or
- 2. He intentionally commits any disorderly conduct in the immediate view and presence of the City Council which tends to interrupt its proceeding or impair the respect of its authority; or
- 3. Intentionally disturbs an official meeting or commits any disorderly conduct in immediate view and presence of participants in an official meeting which has or is intended to have the effect of interrupting its proceedings.

13-830-5. INTERFERENCE IN ARREST BY LAW ENFORCEMENT OFFICIAL. Reserved.

13-830-6. OBSTRUCTING JUSTICE.

A. A person is guilty of an offense if, with intent to hinder, prevent or delay the discovery, apprehension, prosecution, conviction or punishment of another for the commission of a crime, he:

- 1. Knowing an offense has been committed, conceals it from a magistrate; or
- 2. Harbors or conceals the offender; or

3. Provides the offender a weapon, transportation, disguise or other means for avoiding discovery of apprehension; or
 4. Warns such offender of impending discovery or apprehension; or
 5. Conceals, destroys or alters any physical evidence that might aid in the discovery, apprehension or conviction of such a person; or
 6. Obstructs by force, intimidation or deception anyone from performing an act which might aid in the discovery, apprehension, prosecution or conviction of such a person.
- B. An offense under this section is a class B misdemeanor.

13-830-7. FAILURE TO AID PEACE OFFICER.

A person is guilty of a class B misdemeanor if, upon command by a peace officer identifiable or identified by him as such, he unreasonably fails or refuses to aid the peace officer in effecting an arrest or in preventing the commission of any offense by another person.

13-830-8. ACCEPTANCE OF BRIBE OR BRIBERY TO PREVENT CRIMINAL PROSECUTION – DEFENSE.

- A. A person is guilty of a class B misdemeanor if he:
1. Solicits, accepts or agrees to accept any benefit as consideration for his refraining from initiating or aiding in a criminal prosecution; or
 2. Confers, offers or agrees to confer any benefit upon another as consideration for the person refraining from initiating or aiding in a criminal prosecution.
- B. It is an affirmative defense that the value of the benefit did not exceed an amount which the actor believed to be due as restitution or indemnification for the loss caused or to be caused by the offense.

13-830-9. ESCAPE – TERM FOR ESCAPE FROM MUNICIPAL JAIL.

- A. A person is guilty of a class B misdemeanor if he escapes from official custody.
- B. "Official custody," for the purpose of this section, means arrest, custody in the municipal jail or any other institution for confinement to which an offender has been confined pursuant to an order of the municipal court. For purposes of this section a person is deemed to be confined in the municipal jail if he has been sentenced and committed and the sentence has not been terminated or voided or the prisoner is not on parole.
- C. The term imposed upon a person escaping confinement in the municipal jail shall commence from the time the actor otherwise would have been discharged from the jail on the term or terms which he was serving.

13-830-10. RESERVED.

13-830-11. RESERVED.

13-830-12. BAIL – JUMPING.

A. A person is guilty of an offense when having been released on bail or on his own recognizance by court order or by other lawful authority upon condition that he subsequently appear personally upon a charge of an offense, he fails without just cause to appear at the time and place which have been lawfully designated for his appearance.

B. Bail-jumping is a class B misdemeanor.

13-840. OFFENSE AGAINST PUBLIC PROPERTY.

13-840-1. "PUBLIC MONEYS" DEFINED.

As used in this part, "public moneys" includes all bonds and evidences of indebtedness and all money belonging to or under the control of the City of Delta and all money, bonds and evidences of indebtedness received or held by municipal officials in their official capacity.

13-840-2. MISUSING PUBLIC MONEYS.

A. Every officer of Delta City and every other person charged with the receipt, safekeeping, transfer or disbursement of moneys of or under the control of Delta City commits an offense if he:

1. Without authority of law appropriates the money or any portion thereof to his own use, or to the use of another; or
2. Loans the money or any portion thereof without authority of law; or
3. Fails to keep the money in his possession until disbursed or paid out by authority of law; or
4. Unlawfully deposits the money or any portion in any bank or with any other person; or
5. Knowingly keeps any false account, or makes any false entry or erasure in any account of or relating to the money; or
6. Fraudulently alters, falsifies, conceals, destroys or obliterates any such account; or
7. Willfully refuses or omits to pay over, on proper demand, any public moneys in his hands, upon the presentation of a draft, order or warrant drawn upon such moneys by competent authority; or

8. Willfully omits to transfer the money when the transfer is required by law; or
9. Willfully omits or refuses to pay over, to any officer or person authorized by law to receive it, any money received by him under any duty imposed by law to pay over the same.

B. A violation of this section is a class B misdemeanor.

13-840-3. FAILURE TO KEEP AND PAY OVER PUBLIC MONEYS.

Every officer charged with the receipt, safekeeping or disbursement of public moneys who neglects or fails to keep and pay over the money, in the manner prescribed by law, is guilty of a class B misdemeanor.

13-840-4. MAKING PROFIT OUT OF, OR MISUSING PUBLIC MONEYS.

Any public officer who shall make a profit out of public moneys or shall use the same for a purpose not authorized by law is guilty of a class B misdemeanor.

13-840-5. FAILURE TO PAY OVER FINE, FORFEITURE OR FEE.

Every public officer who receives any fine, forfeiture or fee and refuses or neglects to pay it over within the time prescribed by law is guilty of a class B misdemeanor.

13-840-6. OBSTRUCTING COLLECTION OF REVENUE.

Every person who willfully obstructs or hinders any public officer from collecting any revenue, taxes or other sums of money in which the people of Delta City have an interest and which such officer is by law empowered to collect, is guilty of a class B misdemeanor.

13-840-7. REFUSING TO GIVE TAX ASSESSMENT INFORMATION OR GIVING FALSE INFORMATION.

Every person who unlawfully refuses, upon demand, to give to any county assessor or deputy county assessor or the municipal assessor a list of his property subject to taxation, or to swear to such list, or who gives a false name or fraudulently refuses to give his true name when demanded by the assessor in the discharge of his official duties, is guilty of a class B misdemeanor.

13-840-8. GIVING FALSE TAX RECEIPT OR FAILING TO GIVE RECEIPT.

Every person who uses or gives any receipt, except that prescribed by the ordinances, resolutions or rules of Delta City, as evidence of the payment for the tax or license of any kind, or who receives payment for the tax or license without delivering the receipt prescribed, is guilty of a class B misdemeanor.

13-840-9. REFUSING TO GIVE TAX ASSESSOR OR TAX OR LICENSE COLLECTOR LIST OF, OR DENYING ACCESS TO EMPLOYEES.

Every person who, when requested by the assessor or collector of taxes or license fees, refuses to give to any assessor or collector the name and residence of each man in his employ, or to give the assessor or collector access to the building or place where such men are employed, is guilty of a class B misdemeanor.

13-840-10. DOING BUSINESS WITHOUT LICENSE.

Every person who commences or carries on any business, trade, profession or calling, for the transaction or carrying on of which a license is required by any ordinance of Delta City, without taking out the license required, is guilty of a class B misdemeanor.

13-840-11. TRAFFICKING IN WARRANTS.

No officer of Delta City shall, either directly or indirectly, contract for or purchase any warrant or order issued by Delta City at any discount whatever upon the sum due on the warrant or order, and if any officer of this municipality shall so contract for or purchase any such order or warrant on a discount, he is guilty of a class B misdemeanor.

13-840-12. STEALING, DESTROYING OR MUTILATING PUBLIC RECORDS BY CUSTODIAN.

Every Delta City officer having the custody of any municipal record, map or book or any paper or proceedings of any court, filed or deposited in any public office, or placed in his hands for any purpose, who is guilty of stealing, willfully destroying, mutilating, defacing, altering, falsifying, removing or secreting the whole or any part thereof, or who permits any other person so to do, is guilty of a class B misdemeanor.

13-840-13. STEALING, DESTROYING OR MUTILATING PUBLIC RECORDS BY ONE NOT CUSTODIAN.

Every person, not an officer such as is referred to in the preceding section, who has committed any of the acts specified in that section is guilty of a class B misdemeanor.

13-840-14. RECORDING FALSE OR FORGED INSTRUMENTS.

Every person who knowingly procures or offers any false or forged instrument to be filed, registered, or recorded in any office of Delta City, which instrument, if genuine, might be filed or registered or recorded under any law or ordinance of this state or municipality or of the United States, is guilty of a class B misdemeanor.

13-840-15. INJURING OR REMOVING MONUMENTS OR OFFICIAL SURVEYS.

Every person who without proper authority willfully injures, defaces or removes any signal, monument, building or appurtenance thereto, placed, erected or used by persons engaged in the United States or state survey or survey of Delta City is guilty of a class B misdemeanor.

13-840-16. TAMPERING WITH OFFICIAL NOTICE OR PROCLAMATION.

Every person who intentionally defaces, obliterates, tears down or destroys any copy or transcript or extract from or of any law of the United States or State of Utah, or Delta City or any proclamation, advertisement, notice, resolution or ordinance, set up at any place in Delta City by authority of any law of the United States or of the State of Utah or of Delta City, or by order of any court or of any public officer, before the expiration of the time for which the same was to remain, is guilty of a class B misdemeanor.

13-840-17. INJURING JAILS.

Every person who willfully and intentionally breaks down, pulls down or otherwise destroys or injures any public jail or other place of confinement, is guilty of a class B misdemeanor.

13-840-18. INJURING HIGHWAYS OR BRIDGES.

Every person who maliciously digs up, removes, displaces, breaks, or otherwise injures or destroys any public highway, or any private way laid out by authority of law, or any bridge upon such highway or private way, is guilty of a class B misdemeanor.

13-840-19. REMOVING OR INJURING ROAD SIGNS.

Every person who maliciously removes or injures any milepost, milestone or guidepost or any inscription of them, erected upon any highway, street, road or alley is guilty of a class B misdemeanor.

13-850. FALSIFICATION IN OFFICIAL MATTERS.

13-850-1. DEFINITIONS. For the purposes of this part:

A. "Official proceeding" means any proceeding before the City Council, court or administrative body of Delta City authorized by any state or ordinance of the City Council to take evidence under oath or affirmation, including a notary or other person taking evidence in connection with any of these proceedings.

B. "Material" means capable of affecting the course or outcome of the proceeding, a statement is not material if it is retracted in the course of the official proceeding in which it was made before it became manifest that the falsification was or would be exposed and before it substantially affects the proceeding. Whether a statement is material is a question of law to be determined by the court.

13-850-3. FALSE OR INCONSISTENT STATEMENTS.

In any proceeding conducted by Delta City or pursuant to its ordinances a person is guilty of a class B misdemeanor if:

A. He makes a false statement under oath or affirmation or swears or affirms the truth of the statement previously made and he does not believe the statement to be true if:

1. The falsification occurs in an official proceeding, or is made with a purpose to mislead a public servant in performing his official functions; or
2. The statement is one which is required by law to be sworn or affirmed before a notary or other person authorized to administer oaths; or

B. He makes inconsistent statements under oath or affirmation, both within the period of limitations, one of which is false and not believed by him to be true. In a prosecution under this section, it need not be alleged or proved which of the statements is false but only that one or the other was false and not believed by the defendant to be true.

C. No person shall be guilty under this section if he retracts the falsification before it becomes manifest that the falsification was or would be exposed and before material reliance is made by the person or persons involved in the official proceedings to whom the false statement is directed.

13-850-4. WRITTEN FALSE STATEMENT.

A person is guilty of a class B misdemeanor if:

A. He makes a written false statement which he does not believe to be true on or pursuant to a form bearing a notification authorized by law to the effect that false statements made therein are punishable; or

B. With intent to deceive a public servant in the performance of his official function; he:

1. Makes any written false statement which he does not believe to be true; or
2. Knowingly creates a false impression in a written application for any pecuniary or other benefit by omitting information necessary to prevent statements therein from being misleading; or
3. Submits or invites reliance on any writing which he knows to be lacking in authenticity; or
4. Submits or invites reliance on any sample, specimen, map, boundary mark or other object which he knows to be false.

C. No person shall be guilty under this section if he retracts the falsification before it becomes manifest that the falsification was or would be exposed and before the person

or persons to whom or for whom the false statement was directed make material reliance thereon.

13-850-5. PERJURY OR FALSE SWEARING – PROOF OF FALSITY OR STATEMENTS – DENIAL OR CRIMINAL GUILT.

A. On any prosecution of perjury or false swearing, except a prosecution upon inconsistent statements pursuant to 13-850-2 (b) falsity of a statement may not be established solely through contradiction by the testimony of a single witness.

B. No prosecution shall be brought under this part when the substance of the defendant's false statement is his denial of guilt in a previous criminal trial.

13-850-6. FALSE REPORTS OF OFFENSE TO LAW ENFORCEMENT OFFICER.

A person is guilty of a class B misdemeanor if he:

A. Knowingly gives or causes false information to be given to any law enforcement officer with a purpose of inducing the officer to believe that another has committed an offense; or

B. Knowingly gives or causes information to be given to any law enforcement officer concerning the commission of an offense, knowing that that offense did not occur or knowing that he has no information relating to the offense or danger.

13-850-7. FALSE NAME OR ADDRESS TO LAW ENFORCEMENT OFFICER.

A person commits a class C misdemeanor if, with intent of misleading a law enforcement officer as to his identity, knowingly gives a false name or address to a law enforcement officer in the lawful discharge of his official duties.

13-850-8. TAMPERING WITH WITNESS – RETALIATION AGAINST WITNESS OR INFORMANT – BRIBERY.

A person is guilty of a class B misdemeanor if:

A. Believing that an official proceeding or investigation is pending or about to be instituted, he attempts to induce or otherwise cause a person to:

1. Testify or inform falsely; or
2. Withhold any testimony, information, document or thing; or
3. Elude legal process summoning him to provide evidence; or
4. Absents himself from any proceeding or investigation to which he has been summoned; or

B. He commits any unlawful action in retaliation for anything done by another in his capacity as a witness or informant; or

C. He solicits, accepts or agrees to accept any benefit in consideration of his doing any of the things specified in paragraph A.

13-850-9. EXTORTION OR BRIBERY TO DISMISS CRIMINAL PROCEEDING.

A. A person is guilty of a class B misdemeanor if by the use of force or by any threat which would constitute a means of committing the crime of theft by extortion under this title, if the threat were employed to obtain property, or by promise of any reward or pecuniary benefits, he attempts to induce an alleged victim of a crime to secure the dismissal of or to prevent the filing of a criminal complaint or information.

B. "Victim" as used in this section, includes a child or other person under the care or custody of a parent or guardian.

13-850-10. TAMPERING WITH EVIDENCE.

A person commits a class B misdemeanor if, believing that an official proceeding or investigation is pending or about to be instituted by the City of Delta, he:

A. Alters, destroys, conceals or removes anything with a purpose to impair its verity or availability in the proceeding or investigation; or

B. Makes, presents or uses anything which he knows to be false with a purpose to deceive a public servant who is or may be engaged in a proceeding or investigation.

13-850-11. FALSIFICATION OR ALTERATION OF GOVERNMENT RECORD. A person is guilty of a class B misdemeanor if he:

A. Knowingly makes a false entry in or false alteration of anything belonging to, received or kept by Delta City for information or record, or required by law to be kept for information of Delta City; or

B. Presents or uses anything knowing it to be false and with a purpose that it be taken as a genuine part of information or records referred to in A; or

C. Intentionally and unlawfully destroys, conceals or otherwise impairs the verity or availability of any such thing.

13-850-12. IMPERSONATION OF OFFICER.

A person is guilty of a class B misdemeanor if he impersonates a public servant or a peace officer of Delta City with intent to deceive another or with intent to induce another to submit to his pretended official authority or to reply upon his pretended official act

13-850-13. FALSE JUDICIAL OR OFFICIAL NOTICE.

A person is guilty of a class B misdemeanor who, with a purpose to procure the compliance of another with a request made by the person, knowingly sends, mails or delivers to a person a notice or other writing which has no judicial or other sanction but which in its format or appearance simulates a summons, complaint, court order, or process, or an insignia, seal or printed form of any official of Delta City, or is otherwise calculated to induce a belief that it does have a judicial or other official sanction.

13-850-14. RESERVED.

13-860. ABUSE OF PROCESS

13-861. WRONGFUL COMMENCEMENT OF ACTION IN JUSTICES' COURT.

Any party to any suit or proceeding, and any attorney or agent for the party, who knowingly commences, prosecutes or maintains any action, suit or proceeding in the court of Delta City, other than as provided by § 78-5-5, Utah Code Annotated (1953) is guilty of a class B misdemeanor.

13-862. ASSUMING LIABILITY FOR CONFERRING JURISDICTION UPON JUSTICE

Any person who binds himself, or voluntarily becomes liable jointly or jointly and severally with any other person, for the purpose of conferring jurisdiction of any cause upon the court of Delta City which otherwise would be without jurisdiction except for the liability of the joint obligor, and any person who induces a person to assume the liability for the purpose of conferring jurisdiction upon the court, is guilty of a class B misdemeanor.

13-863. WRONGFUL ATTACHMENT BY JUSTICE – LIABILITY.

It is unlawful for the Justice of the Peace of Delta City to issue any writ of attachment, and for any party, agent or attorney of the party, to advise, induce or procure the issuance thereof, in any action, suit or proceeding before the affidavit therefore is filed, or where the affidavit filed therefore does not conform substantially with the requirements of Rule 64C of the Utah Rules of Civil Procedure. Any person violating any of the provisions of this section is guilty of a class B misdemeanor.

13-870. RESERVED.

13-880. SABOTAGE PREVENTION.

13-881. DEFINITIONS. For the purpose of this part:

A. "Highway" includes any private or public street, way or other place used for travel to or from property within Delta City.

B. "Public utility" includes any pipeline, gas, electric, heat, water, oil, sewer, telephone, telegraph, radio, railway, railroad, airplane, transportation communication or other system by whomsoever owned or operated for public use.

13-882. POSTING OF SIGNS AT WAR OR DEFENSE FACILITIES – ENTERING POSTED PREMISES WITHOUT PERMISSION.

A. Any individual, partnership, association, corporation or political subdivision of the State of Utah engaged in, or preparing to engage in, the manufacture, transportation or storage of any product to be used in the preparation of the United States or of any of the states for defense or for war or in the prosecution of war by the United States, or the manufacture, transportation, distribution or storage of gas, oil, coal, electricity or water, or any natural or artificial persons operating any public utility, whose property, except where it fronts on water or where there are entrances for railway cars, vehicles, persons or things is surrounded by a fence or wall, or a fence or wall and buildings, may post around his or its property at each gate, entrance, dock or railway entrance and every one hundred feet of water front a sign reading "No Entry Without Permission." The sign shall also designate a point of entrance or place where application may be made for permission to enter, and permission shall not be denied to any loyal citizen who has a valid right to enter.

B. Any person willfully entering property enumerated in paragraph A, without permission of the owner, shall be guilty of a class C misdemeanor.

13-883. CLOSING OR RESTRICTING USE OF HIGHWAYS ABUTTING DEFENSE OR WAR FACILITIES – POSTING OF NOTICES.

A. Any individual partnership, association, corporation, or any political subdivision of the state engaged in or preparing to engage in the manufacture, transportation or storage of any product to be used in the preparation of the United States or any of the states for defense or for war or in the prosecution of war by the United States, or in the manufacture, transportation, distribution or storage of gas, oil, coal, electricity or water, or any of natural or artificial persons operating any public utility who has property so used which he or it believes will be endangered if public use and travel is not restricted or prohibited on one or more highways or parts thereof upon which the property abuts, may petition the Delta City Council to close one or more of the highways or parts thereof to public use and travel or to restrict by order the use and travel upon one or more of the highways or parts thereof. Upon receipt of the petition, the City Council shall by resolution set a date for hearing and give notice thereof by publication in a newspaper having general circulation in Delta City, which publication shall be made at least seven days prior to the date set for hearing. If, after hearing, the City Council determines that the public safety and the safety of the property of the petitioner so require, they shall by suitable order close to public use and travel or reasonably restrict the use of and travel upon one

or more of the highways or parts thereof; provided the City Council may issue written permits to travel over the highway so closed or restricted to responsible and reputable persons for a term, under conditions and in a form as the City Council may prescribe. Appropriate notices in letters at least three inches high shall be posted conspicuously at each end of any highway so closed or restricted by an order. The City Council may at any time revoke or modify any order so made.

B. Any person who violates any order made under this section shall be guilty of a class C misdemeanor.

13-884. BARGAINING RIGHTS OF EMPLOYEES NOT IMPAIRED BY SABOTAGE PREVENTION LAWS.

Nothing in this part shall be construed to impair, curtail or destroy the rights of employees and their representatives to organize, form, join or assist labor organizations, to bargain collectively through representatives of their own choosing, and to engage in concerted activities, for the purpose of collective bargaining or other mutual aid or protection as provided by state or federal laws.

13-890. RESERVED.

13-900. OFFENSES AGAINST PUBLIC ORDER AND DECENCY.

13-910. BREACHES OF THE PEACE AND RELATED OFFENSES.

13-911. RIOT.

A. A person is guilty of riot if:

1. Simultaneously with two or more other persons he engages in tumultuous or violent conduct and thereby knowingly or recklessly creates a substantial risk of causing public alarm; or

2. He assembles with two or more other persons with the purpose of engaging, soon thereafter, in tumultuous or violent conduct, knowing that two or more other persons in the assembly have the same purpose; or

3. He assembles with two or more other persons with the purpose of committing an offense against a person or property of another who he supposes to be guilty of a violation of law, believing that two or more in the assembly have the same purpose.

B. Any person who refuses to comply with a lawful order to withdraw given to him immediately prior to, during, or immediately following a violation of paragraph A is guilty of riot. It is no defense to prosecution under this paragraph that withdrawal must take place over private property; provided, however, that no persons so withdrawing shall incur criminal or civil liability by virtue of acts reasonably necessary to accomplish the withdrawal.

C. Riot is a class B misdemeanor.

13-912. DISORDERLY CONDUCT.

A. A person is guilty of disorderly conduct if:

1. He refuses to comply with the lawful order of the police to move from a public place or knowingly creates a hazardous or physically offensive condition by any act which serves no legitimate purpose; or

2. Intending to cause public inconvenience, annoyance or alarm or recklessly creating a risk thereof:

(a) He engages in fighting or in violent, tumultuous or threatening behavior; or

(b) He makes unreasonable noise in a public place; or (c) He makes unreasonable noises in a private place which can be heard in a public place; or

(d) He engages in abusive or obscene language or makes obscene gestures in a public place; or

(e) He obstructs vehicular or pedestrian traffic.

B. "Public place," for the purpose of this section, means any place to which the public or a substantial group of the public has access and includes but is not limited to streets and highways and the common areas of schools, hospitals, apartment houses, office buildings, transport facilities and shops.

C. Disorderly conduct is a class c misdemeanor if the offense continues after a request by a person to desist. Otherwise it is an infraction.

13-913. DISRUPTING A MEETING OR PROCESSIONS.

A. A person is guilty of disrupting a meeting or procession if, intending to prevent or disrupt a lawful meeting, procession or gathering, he obstructs or interferes with the meeting, procession or gathering by physical action, verbal utterance or any other means.

B. Disrupting a meeting or procession is a class B misdemeanor.

13-914. FAILURE TO DISPERSE.

A. A person is guilty of failure to disperse when he remains at the scene of a riot, disorderly conduct, or an unlawful assembly after having been ordered to disperse by a peace officer.

B. This section shall not apply to a person who attempted to but was unable to leave or was prevented from leaving the scene of the riot or unlawful assembly.

C. Failure to disperse is a class C misdemeanor.

13-915. GIVING FALSE ALARM.

A. A person is guilty of giving a false alarm if he initiates or circulates a report or warning of any fire, impending bombing or other crime or catastrophe, knowing that the report or warning is false or baseless and is likely to cause evacuation of the building, place of assembly or facility or public transport, to cause public inconvenience or alarm or action of any sort by any official or volunteer agency organized to deal with emergencies.

B. Giving false alarm is a class B misdemeanor.

13-920. TELEPHONE ABUSE.

13-921. TELEPHONE HARRASSMENT.

A. A person is guilty of telephone harassment and subject to prosecution if, with intent to annoy or alarm another, he:

1. Makes a telephone call whether or not a conversation ensues, without purpose or lawful communication; or
2. Makes repeated telephone calls at extremely inconvenient hours or in offensively coarse language; or
3. Insults, taunts or challenges another in a manner likely to provoke a violent or disorderly response.

B. Telephone harassment is a class B misdemeanor.

13-922. EMERGENCY TELEPHONE ABUSE.

A. A person is guilty of emergency telephone abuse if he:

1. Intentionally refuses to yield or surrender the use of a party line or a public pay telephone to another person upon being informed that the telephone is needed to report a fire or summon police, medical or other aid in case of emergency, unless the telephone is likewise being used for an emergency call; or
2. Asks for or requests the use of a party line or a public pay telephone on the pretext that an emergency exists, knowing that no emergency exists.

B. Emergency telephone abuse is a class C misdemeanor.

C. For the purpose of this section (1) "party line" means a subscriber's line or telephone circuit consisting of two or more main telephone stations connected therewith, with each station having a distinctive ring or telephone number.

D. "Emergency" means a situation in which property or human life or injury is in jeopardy and the prompt summoning of aid is essential to the preservation of human life or property or prevention of injury.

13-930. CRUELTY TO ANIMALS.

13-931. CRUELTY TO ANIMALS.

A. A person commits cruelty to animals if he intentionally or knowingly:

1. Abandons an animal in his custody; or
2. Transports or confines an animal in a cruel manner; or
3. Causes one animal to fight with another.

B. It is a defense to the prosecution under this section that the conduct of the actor towards the animal was by a licensed veterinarian using accepted veterinary practice or directly related to a bona fide experimentation for scientific research not be unnecessarily cruel unless directly necessary to the veterinary purpose or scientific research involved.

C. Cruelty to animals is a class B misdemeanor.

13-931.5. SPECTATOR AT ORGANIZED ANIMAL FIGHT.

A. It is unlawful for any person to be a spectator at an organized animal fight.

B. For the purpose of this section only, an organized animal fight means a fight between animals for the benefit or spectators. There is no requirement that an admission fee be charged.

C. A violation of this section is a class C misdemeanor.

13-932. RESERVED.

13-933. RESERVED.

13-934. ALLOWING VICIOUS ANIMAL TO GO AT LARGE.

Any owner or a vicious animal, knowing its propensities, who willfully allows it to go at large or who keeps it without ordinary care, and any animal, while at large or while not kept with ordinary care, causes injury to another animal or to any human being who has taken reasonable precaution under the circumstances is guilty of a class B misdemeanor.

13-935. OFFICERS' AUTHORITY TO TAKE POSSESSION OF ANIMALS – LIEN FOR CARE.

Section § 76-9-305, Utah Code Annotated, 1953, is incorporated herein by reference.

13-940. OFFENSES AGAINST PRIVACY.

13-941. DEFINITIONS. For purposes of this part:

- A. "Private place" means a place where one may reasonably expect to be safe from casual or hostile intrusion or surveillance.
- B. "Eavesdrop" means to overhear, record, amplify, or transmit any part of a wire or oral communication of others without the consent of at least one party thereto by means of any electronic, mechanical or other device.
- C. "Public" includes any professional or social group of which the victim of a defamation is a member.

13-942. PRIVACY VIOLATION.

- A. A person is guilty of privacy violation, if, except as authorized by law, he:
 - 1. Trespasses on property with intent to subject anyone to eavesdropping or other surveillance in a private place; or
 - 2. Installs in any private place, without the consent of the person or persons entitled to privacy there, any device for observing photographic, recording, amplifying or broadcasting sounds or events in the place or uses any such unauthorized installation; or
 - 3. Installs or uses outside of a private place any device for hearing, recording, amplifying or broadcasting sounds originating in the place which would not ordinarily be audible or comprehensible outside, without the consent of the person or persons entitled to privacy there.
- B. Privacy violation is a class B misdemeanor.

13-943. COMMUNICATION ABUSE.

- A. A person commits communication abuse if, except as authorized by law, he:
 - 1. Intercepts, without consent of the sender or receiver, a message by telephone, telegraph, letter or other means of communicating privately; this paragraph does not extend to:
 - (a) Overhearing of messages through a regularly installed instrument on a telephone party line or on an extension; or
 - (b) Interception by the telephone company or subscriber incident to enforcement of regulations limiting use of the facilities or to other normal operation and use; or
 - 2. Divulges without consent of the sender or receiver the existence or contents of any such message if the actor knows that the message was illegally intercepted or if he learned of the message in the course of employment with an agency engaged in transmitting it.

B. Communication abuse is a class B misdemeanor.

13-944. CRIMINAL DEFAMATION.

A. A person is guilty of criminal defamation if he knowingly communicates to any person orally or in writing any information which he knows to be false and knows will tend to expose any other living person to public hatred, contempt or ridicule.

B. Criminal defamation is a class B misdemeanor.

13-945. ABUSE OF PERSONAL IDENTITY.

A. A person is guilty of personal identity abuse, if, for the purpose of advertising any articles or merchandise for purposes of trade or for any other advertising purposes, he uses the name, picture or portrait of any individual; or uses the name or picture of any public institution or this state; the official title of any public officer of this state, or of any person who is living, without first having obtained the written consent of the person or, if the person be a minor, the written consent of his parent or guardian, or, if the person is dead, without the written consent of his heirs or personal representatives.

B. Abuse of personal identity is a class B misdemeanor.

13-950. LIBEL AND SLANDER.

13-951. CONVEYING FALSE OR LIBELOUS MATERIAL TO NEWSPAPER OR BROADCASTING STATIONS.

Any person who willfully states, conveys, delivers or transmits, by any means whatsoever to the manager, editor, publisher, reporter or agent of any radio station, television station, newspaper, magazine, periodical or serial for publication therein, any false or libelous statement concerning any person and thereby secures actual publication of the same, is guilty of a class B misdemeanor.

13-960. OFFENSES AGAINST THE FLAG.

13-961. ABUSE OF A FLAG.

A. A person is guilty of abuse of a flag if he:

1. Intentionally places any unauthorized inscription or other things upon any flag of the United States or of any state of the United States; or

2. Knowingly exhibits any such flag, knowing the inscription or other things to be unauthorized; or

3. For purposes of advertising a product or service for sale or for distribution, affixes a representation of the flag of the United State or of a state of the United States to the product or on any display whereon the product or service is advertised; or

4. Knowingly casts contempt upon the flag of the United States or of any state of the United States by publicly mutilating, defacing, defiling, burning or trampling upon it.

B. Abuse of a flag is a class B misdemeanor.

13-970. MISCELLANEOUS PROVISIONS.

13-971. INTOXICATION – RELEASE OF ARRESTED PERSON.

A. A person is guilty of intoxication if he is under the influence of intoxicating liquor, a controlled substance, or any substance having the property of releasing toxic vapors, to a degree that the person may endanger himself or another, in a public place or in a private place where he unreasonably disturbs other persons.

B. A peace officer or a magistrate may release from custody an individual arrested under this section if he believes imprisonment is unnecessary for the protection of the individual or another.

C. An offense under this section is a class C misdemeanor.

13-972. LEWDNESS.

A. A person is guilty of lewdness if he fornicates, exposes his genitals or private parts, or performs any other act of gross lewdness under circumstances which he should know will likely cause affront or alarm or does any such act in a public place.

B. Lewdness is a class B misdemeanor.

13-973. LOITERING.

A. A person is guilty of loitering if he appears at a place or at a time under circumstances that warrant alarm for the safety of persons or property in the vicinity, and upon inquiry by a law enforcement official, he fails to give a reasonable credible account of his identity, conduct or purposes.

B. No person shall be convicted under this section if the explanation he gave of his conduct and purposes was true and, if believed by the law enforcement official at the time, would have dispelled the alarm.

C. Loitering is a class C misdemeanor.

13-974. ABUSE OF A CORPSE.

A. A person is guilty of abuse of a corpse if he intentionally and unlawfully:

1. Removes, conceals, dissects or destroys a corpse or any part thereof; or
2. Disinters a corpse that has been buried or otherwise interred.

B. An offense under this section is a class B misdemeanor.

13-1000. OFFENSES AGAINST PUBLIC HEALTH, SAFETY, WELFARE AND MORALS.

13-1010. CIGARETTES AND TOBACCO AND PSYCHOTOXIC CHEMICAL SOLVENTS.
For the purposes of this part, the following definitions shall be applied:

13-1011. "PLACE OF BUSINESS" AND "ENCLOSED PUBLIC PLACE" DEFINED.

A. "Place of business" means any and all such places as shops, stores, factories, public garages, offices, theaters, recreation and dance halls, poolrooms, cafes, cafeterias, cabarets, restaurants, hotels, lodging houses, streetcars, buses, interurban and railway passenger coaches and waiting rooms.

B. "Enclosed public place" means the dining rooms in hotels, restaurants, cafes and cafeterias, theaters, arena, passenger elevators, streetcars, buses, interurban and railway passenger coaches, motor and other passenger vehicles used by common carriers, railway station waiting rooms, and state, county and city buildings; but the owner or proprietor of any hotel dining room, restaurant, café or cafeteria may designate the same as a public smoking room by a conspicuous sign at or near the entrance, and in any state, county or city building. Any public officer who has a private office separate and apart from his public office may, if he so desires, designate the private office as a place where smoking may be permitted, and, so long as the private office is so designated, smoking therein shall not be considered in violation of this section.

13-1012. CIGARETTES AND TOBACCO – ADVERTISING RESTRICTIONS.

It is a class B misdemeanor for any person to display on any billboard, streetcar sign, streetcar, bus, placard, or on any other object or place of display, any advertisement of cigarettes, cigarette papers, cigars, chewing tobacco, or smoking tobacco or any disguise or substitute of either, except that a dealer in cigarettes, cigarette papers, tobacco or cigars, or their substitutes, may have a sign on the front of his place of business stating that he is a dealer in the articles; provided that nothing herein shall be construed to prohibit the advertising of cigarettes, cigarette papers, chewing tobacco or smoking tobacco, or any substitute of either, in any newspapers, magazine or periodical printed or circulating in this municipality.

13-1013. PERMITTING MINORS TO USE TOBACCO IN PLACE OF BUSINESS.

It is a class C misdemeanor for the proprietor of any place of business to knowingly permit persons under age nineteen to frequent a place of business while they are using tobacco.

13-1014. FURNISHING CIGARS, CIGARETTES OR TOBACCO TO MINORS. Any person, who sells, gives or furnishes any cigars, cigarette or tobacco in any form, to any person under nineteen years of age, is guilty of a class C misdemeanor.

13-1015. BUYING OR POSSESSING CIGARS, CIGARETTES OR TOBACCO BY MINORS. Any person under the age of nineteen years, who buys, accepts, or who has in his

possession any cigar, cigarette or tobacco in any form is guilty of a class C misdemeanor, or may be classified as a delinquent child and referred to the juvenile courts.

13-1016. USE OF CIGARS, CIGARETTES OR TOBACCO IN ENCLOSED PUBLIC PLACE.
Section 76-10-106, Utah Code Annotated, 1953, as amended, is incorporated herein by reference.

13-1017. ABUSE OF PSYCHOTOXIC CHEMICAL SOLVENTS.

A. A person is guilty of abuse of Psychotoxic chemical solvents if:

1. For the purpose of causing a condition of intoxication, inebriation, excitement, stupefaction, or the dulling of his brain or nervous system, he intentionally:

(a) Smells or inhales the fumes of any Psychotoxic chemical solvent; or

(b) Possesses, purchases or attempts to possess or purchase any Psychotoxic chemical solvent.

2. Knowing or believing that a purchaser or another intends to use a Psychotoxic chemical in violation of subsection (A)(1) or (A)(2), sells or offers to sell any psychotoxic chemical solvent.

B. This section shall not apply to the inhalation of any anesthesia for medical or dental purposes.

C. Abuse of Psychotoxic chemical solvents is a class B misdemeanor.

D. As used in this section, Psychotoxic chemical solvent includes any glue, cement or other substance containing one or more of the following chemical compounds: acetone and acetate, benzene, butyl-alcohol, ethylene dichloride, isopropyl alcohol, methyl alcohol, methyl ethyl ketone, pentachlorophenol, petroleum ether, or other chemical substance capable of causing a condition of intoxication, inebriation, excitement, stupefaction, or the dulling of the brain or nervous system as a result of the inhalation of the fumes or vapors of such chemical substance. Nothing in this section shall be construed to include any controlled substance regulated by the provisions of Utah Code Annotated Section § 58-7-1, et seq.

13-1018. DESIGNATED SMOKING AREAS.

Section § 76-10-108, Utah Code Annotated, 1953, as amended, is incorporated herein by reference.

13-1019. DUTIES OF PROPRIETOR OF PUBLIC PLACE.

Section § 76-10-109, Utah Code Annotated, 1953, as amended, is incorporated herein by reference.

13-1019.1. VIOLATIONS.

Sections § 76-10-110, Utah Code Annotated, 1953, as amended, is incorporated herein by reference.

13-1019.2 SMOKING IN CITY PARKS WITHIN THE INCORPORATED AREA OF THE CITY OF DELTA, UTAH.

Section 1. Definition of city park. City park means and includes city-owned parks, ball diamonds and other recreational areas.

Section 2. Smoking in city parks prohibited. It shall be unlawful for any person to smoke in any city park in the City of Delta.

Section 3. Penalty. A violation of this ordinance shall be an infraction. Law enforcement shall have the discretion to issue a warning for the first offense if they deem it is in the best interests of Delta City.

13-1020. WATERS.

13-1021. INTERFERENCE WITH CONTROL OF WATER COMMISSIONER.

Every person who in any way interferes with or alters the flow of water in any stream, ditch, lateral while under the control or management of the water commissioner or superintendent is guilty of a class B misdemeanor.

13-1022. TAKING WATER OUT OF TURN OR EXCESS AMOUNT – INJURING FACILITIES.

Every person who, in violation of any right of any other person, willfully turns or uses the water, or any part thereof, of any canal, ditch, pipeline or reservoir except at a time when the use of the water has been duly distributed to the person, or willfully uses any greater quantity of water than has been duly distributed to him, or in any way changes the flow of water when lawfully distributed for irrigation or other useful purposes, except when duly authorized to make the change, or willfully and maliciously breaks or injures any dam, canal, pipeline, Watergate, ditch or other means of diverting or conveying water for irrigation or other useful purposes, is guilty of a class B misdemeanor.

13-1023. INJURING BRIDGE, DAM, CANAL OR OTHER WATER-RELATED STRUCTURE. Every person who willfully and maliciously cuts, breaks, injures or destroys any bridge, dam, canal, flume, aqueduct, levee, embankment, reservoir or other structure erected to create hydraulic power, or to drain or reclaim any swamp and overflowed or marsh land, or to conduct water for mining, manufacturing, reclamation, or agricultural purposes, or for the supply of the inhabitants of Delta City; or willfully or maliciously makes or causes to be made any aperture in any such dam, canal, flume, aqueduct, reservoir, embankment, levee or structure with intent to injure or destroy it; or draws

up, cuts or injures any piles fixed in the ground and used for securing an lake or river bank or walls or any dock, quay, jetty or lock is guilty of a class B misdemeanor.

13-1030. EXPLOSIVES.

13-1031. UNLAWFUL HANDLING OF EXPLOSIVES.

A. Every person who makes or keeps nitroglycerin or other highly explosive substances of five or more pounds of gunpowder within Delta City, or who carries it through the streets hereof, without first obtaining a permit therefore from the City Recorder, shall be guilty of a class B misdemeanor.

B. The City Recorder may impose as a condition of receiving and keeping a permit under this section, that the person comply with reasonable safety standards as the Chief of Police and Fire Chief may required.

13-1032. MARKING OF CONTAINERS OR EXPLOSIVES BEFORE TRANSPORTATION OR STORAGE.

Every person who knowingly leaves with or delivers to another, or to any express or railway company or other common carrier, or to any warehouse or storehouse, any package containing nitroglycerin, dynamite, guncotton, gunpowder, or other highly explosive compound, or any benzene, gasoline, phosphorous, or other highly inflammable substance, or any vitriol, sulphuric, nitric, carbolic, muriatic, or other dangerous acid, chemical or compound, to be handled, stored, shipped or transported, without plainly marking and indicating on such package the name and nature of the contents thereof, is guilty of a class B misdemeanor.

13-1033. POWDER HOUSES.

Every person who builds, constructs or uses within 300 feet of any residence or traveled road any powder house, magazine, or building in which more than five pounds of gunpowder, dynamite or other explosive is kept is guilty of a class B misdemeanor, unless a permit has been issued therefor under Section 13-1301 above.

13-1034. MARKING OF CONTAINERS OF EXPLOSIVES HELD FOR SALE OR USE.

It shall be a class B misdemeanor to sell or offer for sale or take or solicit orders of sale, or purchase, or use, or have on hand or in store for the purpose of sale or use, any giant Hercules, atlas, venture or any other high explosive containing nitroglycerin, unless on each box or package and wrapper containing any such high explosive there shall be plainly stamped or printed the name and place of business of the person, partnership, or corporation by whom or by which it was manufactured, and the exact and true date of its manufacture, and the percentage of nitroglycerin or other high explosive contained therein.

13-1035. DIFFERENT DATES ON CONTAINERS OF EXPLOSIVE PROHIBITED – REUSE OF CONTAINERS PROHIBITED.

It shall be a class B misdemeanor for any person or persons, partnership or corporation to have two or more different dates on any box or package containing giant, Hercules, atlas or venture, or any other high explosive containing nitroglycerin. It shall further be unlawful to use any box, package or wrapper formerly used by any other person or persons, partnership or corporation in the packing of such giant, Hercules, atlas, venture or other high explosive containing nitroglycerin, and the name and date on the box or package shall be the same as on the wrapper containing the giant, Hercules, atlas, venture or other explosive containing nitroglycerin.

13-1036. "INFERNAL MACHINE" DEFINED.

An infernal machine is any box, package, contrivance, bomb or apparatus containing or arranged with an explosive or acid or poisonous or inflammable substance, chemical or compound, or knife, loaded pistol, or gun, or other dangerous or harmful weapon or thing, constructed, contrived or arranged so as to explode, ignite, or throw forth its contents, or to strike with any of its parts, unexpectedly when moved, handled or opened, or after the lapse of time or under conditions or in a manner calculated to endanger health, life, limb or property.

13-1037. INFERNAL MACHINE – DELIVERY TO COMMON CARRIER, MAILING OR PLACEMENT ON PREMISES.

Every person who delivers or causes to be delivered to any express or railway company or other common carrier, or to any person, any infernal machine, knowing it to be such, without informing the common carrier or person of the nature thereof, or sends it through the mail or throws or places it on or about the premises or property of another, or in any place where another may be injured thereby in his person or property, is guilty of a class B misdemeanor.

13-1038. INFERNAL MACHINE – CONSTRUCTION OR POSSESSION.

Every person who knowingly constructs or contrives any infernal machine or with intent to injure another in his person or property, has any infernal machine in his possession is guilty of a class B misdemeanor.

13-1040. FENCES.

13-1041. FENCING OR SHAFTS AND WELLS.

Any person who has sunk or shall sink a shaft or well for any purpose of sufficient diameter or depth to endanger any person or property shall enclose it with a substantial curb or fence, which shall be at least four and one-half feet high. Any person violating the provisions of this section is guilty of a class B misdemeanor.

13-1050. WEAPONS.

13-1051-1. DEFINITIONS. For the purpose of this part:

A. "Dangerous weapon" means any item that in the manner of its use or intended use is capable of causing death or serious bodily injury. In construing whether an item, object or thing not commonly known as a dangerous weapon is a dangerous weapon, the character of the instrument, object or thing; the character of the wound produced, if any; and the manner in which the instrument, object or thing was used shall be determinative.

B. "Firearms" means pistols, revolvers, sawed-off shotguns, or sawed-off rifles, and/or any device which could be used as a weapon from which is expelled a projectile by any force designed for or capable of causing injury.

C. "Sawed-off gun" means a shotgun having a barrel or barrels of less than eighteen inches in length, or in the case of rifle, having a barrel or barrels of less than sixteen inches in length, or any weapon made from a rifle or shotgun (whether by alteration, modification or otherwise) if the weapon as modified has an overall length of less than 26 inches.

D. "Prohibited area" means any place where it is unlawful to discharge a weapon.

E. "Crime of violence" means, murder, voluntary manslaughter, rape, mayhem, kidnapping, robbery, burglary, housebreaking, extortion or blackmail accompanied by threats of violence, assault with a dangerous weapon, assault with intent to commit any offense punishable by imprisonment for more than one year, or an attempt to commit any of the foregoing offenses.

F. "Bureau" means the Utah State Bureau of Criminal Identification.

13-1050-2. WHEN WEAPON DEEMED LOADED.

For the purpose of this part, any pistol, revolver, shotgun, rifle or other weapon described in this part shall be deemed to be loaded when there is an unexpended cartridge, shell or projectile in the firing position, except in the case of pistols and revolvers in which case they shall be deemed loaded when the unexpended cartridge, shell or projectile is in a position that the manual operation of any mechanism once would cause the unexpended cartridge, shell or projectile to be fired; and a muzzle loading firearm shall be deemed to be loaded when it is capped or primed and has a powder charge and ball or shot in the barrel or cylinders.

13-1050-3. POSSESSION OF DANGEROUS WEAPON BY CONVICTED PERSON, DRUG ADDICT OR MENTALLY INCOMPETENT PERSON PROHIBITED.

Any person who is not a citizen of the United States or any person who has been convicted of any crime of violence under the laws of the United States, the State of Utah, or any other state, government or country, or who is addicted to the use of any narcotic drug, or any person who has been declared mentally incompetent shall not own or have in his possession or under his custody or control any dangerous weapon as defined in this part. Any person who violates this section is guilty of a class B misdemeanor.

13-1050-4. CARRYING CONCEALED DANGEROUS WEAPON.

Any person carrying a concealed dangerous weapon as defined in this part is guilty of a class B misdemeanor.

13-1050-5. CARRYING LOADED FIREARM IN VEHICLE OR ON STREET.

Every person who carries a loaded firearm in a vehicle or on any public street or in a prohibited area is guilty of a class B misdemeanor.

13-1050-6. THREATENING WITH OR USING DANGEROUS WEAPON IN FIGHT OR QUARREL.

Every person who, not in necessary self-defense and in the presence of two or more persons, draws or exhibits any dangerous weapon in an angry and threatening manner or unlawfully uses the same in any fight or quarrel is guilty of a class B misdemeanor.

13-1050-7. POSSESSION OF DEADLY WEAPON WITH INTENT TO ASSAULT. Every person having upon his person any dangerous weapon with intent to unlawfully assault another is guilty of a class B misdemeanor.

13-1050-8. DISCHARGE OF FIREARM FROM VEHICLE OR NEAR HIGHWAY.

It shall be a class B misdemeanor for any person to discharge any kind of firearm from an automobile or other vehicle or to discharge a firearm from, upon, or across any highway.

13-1050-9. POSSESSION OF DANGEROUS WEAPON BY MINOR.

A minor under the age of eighteen may not possess a dangerous weapon as defined herein unless he has the permission of his parent or guardian to have such weapon or is accompanied by parent or guardian while he has such weapon in his possession. In any event, any minor who is under the age of fourteen years must be accompanied by a responsible adult.

13-1050-10. POSSESSION OF WEAPON AUTHORIZED – PERMIT OR LICENSE NOT REQUIRED.

Nothing in this part shall be construed to prohibit a citizen of the United States over the age of eighteen years who resides or is temporarily within Delta City and who is not within

the accepted classes as prescribed by section 13-1050-3 from owning, possessing or keeping within his place of residence or place of business or any vehicle under his control any pistol, revolver or other firearm or dangerous weapon capable of being concealed upon the person, and no permit or license to purchase, own, possess or to keep any such firearm or weapon at his place of residence, or place of business, or any vehicle under his control, shall be required of him.

13-1050-11. POSSESSION OR LOADED WEAPON AT RESIDENCE AUTHORIZED.

Nothing in this part shall prevent any person, except persons described in section 13-1050-3, from having a loaded weapon at his place of residence, including any lawful temporary residence or camp.

13-1050-12. TARGET CONCESSIONS, TRAP FIELDS, SHOOTING RANGES AND HUNTING EXCEPTED FROM PROHIBITIONS.

The provisions of sections 13-1050-3 and 13-1050-9 shall not apply to any of the following:

A. Patrons firing at lawfully operated target concessions at amusement parks, piers, and similar locations provided that the firearms to be used are firmly chained or affixed to the counters.

B. Patrons of commercial trap or skeet fields or shooting ranges during regular business hours.

13-1050-13. LICENSE TO CARRY CONCEALED WEAPONS – REQUIREMENTS FOR ISSUANCE.

The Chief of Police, upon proof that the person applying is of good character, and upon showing that good cause exists for the issuance, may issue to such person a license to carry a concealed weapon for a period of one year from the issuance date of the license.

13-1050-14. LICENSE – APPLICATION FORM.

The application for license must be in substantially the following form:

State of Utah

County of _____ Name of municipality _____

Name _____

Address _____

Present occupation _____ Address of Employer _____

Age _____ Weight _____ Height _____

Color of eyes _____ Color of Hair _____

Have you ever been convicted of a felony? Yes _____ No _____

If the answer to the above question is yes, state where and when and what the charge was _____.

Are you addicted to any narcotics or other habit-forming drugs?

Yes _____ No _____

Have you ever been declared mentally incompetent?

Yes _____ No _____

If the answer to the above question is yes, state where and when _____.

Reasons for issuance of license _____

_____.

Dated this _____ day of _____, 2_____.

Subscribed and sworn to this _____ day of _____, 2_____.

Notary Public

Residing in _____

My commission expires:

13-1050-15. RESERVED.

13-1050-16. LICENSE – FEE – AMOUNT AND DISPOSITION.

Each applicant for a license shall pay a fee of \$3.00 at the time of filing the application. The officer receiving the application shall also receive the \$3.00 fee and shall transmit one-half of the fee together with the fingerprints of the individual to the State Bureau of Criminal Identification. The remaining half of the fee shall be transmitted to the Treasurer.

13-1050-17. LICENSE – RECORDS – COPIES TRANSMITTED TO BUREAU.

When any license is issued, a record shall be maintained in the office of the City Recorder which shall be open to public inspection. Copies of each license issued shall be filed immediately by the Chief of Police with the State Bureau of Criminal Identification.

13-1050-18. RESERVED.

13-1050-19. RESERVED.

13-1050-20. RESERVED.

13-1050-21. UNLAWFUL MARKING OF PISTOL OR REVOLVER.

Any person who places or stamps on any pistol or revolver any number except one assigned to it by the manufacturer or a state or federal bureau is guilty of a class B misdemeanor. This section does not prohibit restoration by the owner of the name of the maker, model, or of the original manufacturer's number or other mark of identification when the restoration is authorized by the bureau, nor prevent any manufacturer from placing in the ordinary course of business the name of the maker, model, manufacturer's number, or other mark of identification upon a new pistol or revolver.

13-1050-22. RESERVED.

13-1050-23. PERSONS EXEMPT FROM WEAPON LAWS. The provisions of this part shall not apply to any of the following:

- A. United States marshals while engaged in the performance of their official duties.
- B. Federal officials required to carry firearms while engaged in the performance of their official duties.
- C. Law enforcement officials of this or any other jurisdiction while engaged in the performance of their official duties.
- D. Common carriers while engaged in the regular and ordinary transport of firearms as merchandise.
- E. Nonresidents traveling in or through Delta City, provided that any such firearm is unloaded and enclosed in a case, gun box or securely tied package or held securely in a gun rack or locked in the trunk of an automobile in which the nonresident is transporting the firearm.

13-1050-24. PURCHASE OF FIREARMS IN CONTIGUOUS STATES PURSUANT TO FEDERAL LAW.

This part will allow purchase of firearms and ammunition by residents in contiguous states pursuant to the Federal Fire Arms Gun Control Act of 1968, section 922, paragraph B, no. 3.

13-1050.25. DISPOSITION OF WEAPONS AFTER USE FOR COURT PURPOSES.

The police departments which has in its possession a weapon after it has been used for court purposes shall determine the true owner of the weapon and return it to him; however, if unable to determine the true owner of the weapon, or if the true owner is the person committing the crime for which the weapon was used as evidence, the department shall confiscate it and shall revert to the department for their use and/or disposal as the Chief of Police shall determine.

13-1060. CHARITY DRIVES.

13-1061. DEFINITIONS. As used in this part:

- A. "Person" means any individual, organization, group, association, partnership, corporation or any combination of them.
- B. "Professional fund raiser" means any person who for compensation or any other consideration plans, conducts or manages the solicitation of contributions for or on behalf of any charitable organization or any other person, or who engages in the business of, or holds himself out to persons as independently engaged in the business of soliciting contributions for such purpose, but shall not include a bona fide officer or employee of a charitable organization;
- C. "Professional solicitor" means any person who is employed or retained for compensation by a professional fund raiser to solicit contributions in Delta City for charitable purposes.
- D. "Charitable organization" means any organization what is benevolent, philanthropic, patriotic or eleemosynary or one purporting to be such.
- E. "Contribution" means the promise or grant of any money or property of any kind or value.

13-1062. USE OF PERSON'S NAME WITHOUT CONSENT FOR SOLICITING CONTRIBUTIONS PROHIBITED – EXCEPTION.

No charitable organization, professional fund raiser or professional solicitor, seeking to raise funds for charitable purposes, shall use the name of any other person for the purpose of soliciting contributions without the written consent of the person; provided that this section shall not apply to religious corporations or organizations, charities, agencies and organizations operated, supervised or controlled by or in connection with a religious corporation or organization.

13-1063. USE OF NAME WITHOUT CONSENT ON STATIONERY OR AS ONE WHO CONTRIBUTED TO ORGANIZATION PROHIBITED.

It shall be deemed to be a violation of this part to use, without written consent, the name of a person for the purpose of soliciting contributions if the person's name is listed on any stationery, advertisement, brochure or correspondence or a charitable organization, or his name is listed or referred to as one who has contributed to, sponsored or endorsed the charitable organization or its activities.

13-1064. VIOLATIONS – CLASSIFICATION OF OFFENSE.

Any person who violates the provisions of this part is guilty of a class B misdemeanor.

13-1070. CORPORATION FRAUDS.

13-1071-1. DEFINITIONS. As used in this part:

A. "Bona fide shareholder of record" means a shareholder of record who has acquired shares in good faith and is acting for a proper purpose reasonably related to his interest as s shareholder.

B. "Director" means any of the persons having by law the direction or management of the affairs of a corporation, by whatever name the persons are described in its charter or known by law.

13-1070-2. FRAUDULENT SIGNING OR SHARE SUBSCRIPTIONS.

Every person who signs the name of a fictitious person to any subscription for, or agreement to take, shares in any corporation existing or proposed, and every person who signs to any subscription or agreement the name of any person, knowing that the person has no means or does not intend in good faith to comply with all the terms thereof, or under any understanding or agreement that the terms of subscription or agreement are not to be complied with or enforced, is guilty of a class B misdemeanor.

13-1070-3. RESERVED.

13-1070-4. MISREPRESENTING PERSON AS OFFICER, AGENT, MEMBER OR PROMOTOR.

Every person who, without being authorized so to do, subscribes the name of another to, or inserts the name of another in, any prospectus, circular or other advertisement or announcement of any corporation or joint stock association, existing or intended to be formed, with intent to permit it to be published, and thereby to lead persons to believe that the person whose name is so subscribed is an officer, agent, member or promoter of such corporation or association, is guilty of a class B misdemeanor.

13-1070-5. CONCURRENCE BY DIRECTOR IN DIVIDEND OR DIVISION OF CAPITAL IN VIOLATION OF LAW.

Every director or any corporation issuing shares, except savings and loan or building and loan associations, who concurs in any vote or act of the directors of the corporation or any of them, by which it is intended either:

- A. To make any dividend except as permitted by the Utah Business Corporation Act; or
- B. To divide, withdraw, or in any manner pay to the shareholders, or any of them, any part of the stated capital of the corporation except as permitted by the Utah Business Corporation Act is guilty of a class B misdemeanor.

13-1070-6. RESERVED.

13-1070-7. FALSE REPORTS.

Every director, officer or agent of any corporation or joint stock association who knowingly makes or concurs in making or publishing any written report, exhibit, or statement of its affairs or pecuniary condition, containing any material statement which is false is guilty of a class B misdemeanor.

13-1070-8. REFUSING INSPECTION OF BOOKS.

Every officer or agent of any corporation having or keeping an office, who has in his custody or control the books or such corporation, and who refuses to give a bona fide shareholder of record or member of the corporation, lawfully demanding during office hours, the right to inspect or take a copy of it or of any part thereof, is guilty of a class B misdemeanor.

13-1070-9. PRESUMPTION OF DIRECTOR'S KNOWLEDGE OF AFFAIRS.

Every director of a corporation or joint stock association is deemed to possess a knowledge of the affairs of his corporation as to enable him to determine whether any act, proceeding or omission of its directors is a violation of this part.

13-1070-10. PRESUMPTION OF DIRECTOR'S CONCURRENCE IN ACTION IF PRESENT AT MEETING – WRITTEN DISSENT REQUIRED.

Every director of a corporation or joint stock association who is present at a meeting of the directors at which any act, proceedings or omission of the directors in violation of this part occurs is deemed to have concurred therein, unless he at the time causes, or in writing requires, his dissent therefrom to be entered in the minutes of the directors or forwards his dissent by registered mail to the secretary of the corporation immediately after the adjournment of the meeting.

13-1070-11. FOREIGN CORPORATIONS SUBJECT TO ORDINANCES.

It is no defense to a prosecution for any violation of any of the provisions of this part that the corporation was one created by the laws of another state, government or country if it was one carrying on business or keeping an office therefor within Delta City.

13-1080. NUISANCES.

13-1081. "NUISANCE" DEFINED – VIOLATION – CLASSIFICATION OF OFFENSE.

A. A nuisance is any item, thing, manner, condition whatsoever that is dangerous to human life or health or renders soil, air, water or food impure or unwholesome.

B. Any person, whether as owner, agent or occupant who creates, aids in creating or contributes to a nuisance or who supports, continues or retains a nuisance is guilty of a class B misdemeanor.

13-1082. BEFOULING WATERS.

A person is guilty of a class B misdemeanor if he:

A. Constructs or maintains a corral, sheep pen, goat pen, stable, pigpen, chicken coop or other offensive yard or outhouse where the waste or drainage therefrom shall flow directly into the waters of any stream, well or spring of water used for domestic purposes; or

B. Deposits, piles, unloads or leaves any manure heap, offensive rubbish or the carcass of any dead animal where the waste or drainage therefrom will flow directly into the waters of any stream, well or spring of water used for domestic purposes; or

C. Dips or washes sheep in any stream, or constructs, maintains or uses any pool or dipping vat for dipping or washing sheep in such close proximity to body of water located within Delta City or over which Delta City may exercise its jurisdiction and used by the inhabitants of Delta City for domestic purposes as to make the waters thereof impure or unwholesome; or

D. Constructs or maintains any corral, yard or vat to be used for the purpose of shearing or dipping sheep within twelve miles of Delta City, where the refuse or filth from the corral or yard would naturally find its way into any stream or supply of water used by the inhabitants of Delta City for domestic purposes.

13-1083. "PUBLIC NUISANCE" DEFINED.

A. A public nuisance is a crime against the public order and economy of Delta City and consists of unlawfully doing any act or omitting to perform any duty, which act or omission, either:

1. Annoys, injures or endangers the comfort, repose, health or safety of three or more persons; or

2. Offends public decency; or
 3. Unlawfully interferes with, obstructs or tends to obstruct, or renders dangerous for passage, any lake, stream, canal, or basin, or any public park, square, street or highway; or
 4. In any way renders three or more persons insecure in life or the use of property.
- B. Any act which affects three or more persons in any of the ways specified in this section is still a nuisance regardless of whether the extent of annoyance or damage inflicted on individuals is unequal.

13-1084. MAINTAINING, COMMITTING OR FAILING TO REMOVE PUBLIC NUISANCE – CLASSIFICATION OF OFFENSE.

Every person who maintains or commits any public nuisance, the punishment for which is not otherwise prescribed, or who willfully omits to perform any legal duty relating to the removal of a public nuisance, is guilty of a class B misdemeanor.

13-1085. CARCASS OR OFFAL – PROHIBITIONS RELATING TO DISPOSAL – CLASSIFICATION OF OFFENSE.

Every person who puts the carcass of any dead animal, or the offal from any slaughter pen, orral or butcher shop into any river, creek, pond, street, alley or public highway, or road in common use or who attempts to destroy it by fire, within one-fourth of a mile of Delta City is guilty of a class B misdemeanor.

13-1086. NOT TO AFFECT OTHER PROVISIONS OF MUNICIPAL ORDINANCES.

Nothing contained in this Municipal Criminal Code shall affect any other provisions of Delta City's ordinances, rules or regulations which regulate, prohibit or effect nuisances or public nuisances.

13-1087. ACTION FOR ABATEMENT OF PUBLIC NUISANCES.

The municipal attorney is empowered to institute an action in the name of Delta City to abate any public nuisance.

13-1090. TRADE AND COMMERCE.

13-1090-1. "JUNK DEALER" DEFINED.

For the purpose of this part "junk dealer" means all persons, firms or corporations engaged in the business of purchasing or selling secondhand or castoff material of any kind, such as old iron, copper, brass, lead, zinc, tin, steel, aluminum and other metals, metallic cables, wires, ropes, cordage, bottles, bagging, rags, rubber, paper and other like materials.

13-1090-2. FRAUDULENT PRACTICES TO AFFECT MARKET PRICE.

Every person who willfully makes or publishes any false statement, spreads any false rumor or employs any other false or fraudulent means or device with intent to affect the market price of any kind of property, is guilty of a class B misdemeanor.

13-1090-3. RESERVED.

13-1090-4. RESERVED.

13-1090-5. RESERVED.

13-1090-6. RESERVED.

13-1090-7. JUNK DEALER'S RECORD OF SALES AND PURCHASES.

Every junk dealer shall keep a book in which shall be written, in ink and in the English language, at the time of each and every purchase and sale a listing of the weight and metallic description of the sale or purchase, together with the full name and residence of the person or persons selling the junk, together with the date and place of the purchase and sale. No entry in the book shall be erased, mutilated or changed. The book and entries shall at all times be open to inspection by the sheriff of the county or any of his deputies and by any member of the police force of Delta City, and any constable or other state, municipal or county officials in this county, provided this part shall not apply to any sale of less than twenty pounds.

13-1090-8. VIOLATION BY JUNK DEALER – CLASSIFICATION OF OFFENSE.

Any junk dealer who shall be found guilty of a violation of any of the provisions of this part shall be guilty of a class B misdemeanor; provided that this part shall not be construed to in any way affect any tax, license or regulation otherwise imposed on any junk dealer.

13-1090-9. JUNK DEALER TO OBTAIN STATEMENT FROM SELLERS.

At the time of purchase by any junk dealer of any copper wire, pig or pigs, or metal or of any junk, as defined in this part, he shall obtain a signed and dated statement from the person or persons selling it as to when, where and from whom the property was obtained and also the residence, address and place of employment of the seller or sellers. The statement shall be retained for five years by the junk dealer and shall be subject to the provisions of section 13-1090-7 relating to erasure, mutilation or change and also to inspection.

13-1090-10. FALSIFICATION OR SELLER'S STATEMENT TO JUNK DEALER.

Any seller who, in the making of his statement as required by this part in selling, offering or trying to sell junk willfully makes a false statement or gives untrue information, shall be guilty of a class B misdemeanor.

13-1100. TRADEMARKS, TRADE NAMES AND DEVICES.

13-1101. DEFINITIONS. For the purposes of this part:

A. "Forged trademark," "forged trade name," "forged trade device" and "counterfeited trademark," "counterfeited trade name," counterfeited trade device," or their equivalents, as used in this part include every alteration or imitation of any trademark, trade name or trade device so resembling the original as to be likely to deceive.

B. "Trademark" or "trade name" or "trade device," as used in this part, includes every trademark registrable with the secretary of state.

13-1102. FORGING OR COUNTERFEITING TRADEMARK, TRADE NAME OR TRADE DEVICE.

Every person who willfully forges or counterfeits or procures to be forged or counterfeited any trademark, trade name or trade device, usually affixed by any person, or by any association or union of workingmen, to his or its goods, which has been filed in the office of the Utah Lieutenant Governor/Secretary of State, with intent to pass off any goods to which the forged or counterfeited trademark, trade name or trade device is affixed or intended to be affixed, as the goods of the person or association or union of workingmen, is guilty of a class B misdemeanor.

13-1103. SELLING GOODS UNDER COUNTERFEITED TRADEMARK, TRADE NAME OR TRADE DEVICE.

Every person who sells or keeps for sale any goods upon or to which any counterfeited trademark, trade name or trade device has been affixed, after it has been filed in the office of the secretary of state, intending to represent the goods as the genuine goods of another, knowing it to be counterfeited, is guilty of a class B misdemeanor.

13-1104. SALES IN CONTAINERS BEARING REGISTERED TRADEMARK OR SUBSTITUTED ARTICLES.

Every person who has or uses any container or similar article bearing or having in any way connected with it the registered trademark of another for the purpose of disposing; with intent to deceive or defraud any article or substance other than that which the container of similar article originally contained or was connected with by the owner of such trademark is guilty of a class B misdemeanor.

13-1105. USING, DESTROYING, CONCEALING OR POSSESSING ARTICLES WITH REGISTERED TRADEMARK OR SERVICE MARK TO DEPRIVE OWNER OF USE OR POSSESSION – EXCEPTION.

Every person who, without the consent of the owner of an article bearing the owner's validly registered trademark or service mark, uses, destroys, conceals or possesses the article or who defaces or otherwise conceals the trademark or service mark upon the article with intent to deprive the owner of the use or possession of that article is guilty of a class B misdemeanor; provided, however, that nothing contained in this part shall be construed to apply to or restrict the transfer or use of wooden boxes or the reuse of burlap or cotton bags or sacks where those bags or sacks have been reversed inside out or the markings thereon have been concealed or obliterated to effectively demonstrate that the products contained therein do not purport to be the products of the owner of the registered trademark or service mark theretofore put upon those bags.

13-1106. SELLING OR DEALING WITH ARTICLES BEARING REGISTERED TRADEMARKS OR SERVICE MARK WITH INTENT TO DEFRAUD.

Every person who, without the consent of the owner of an article bearing the owner's validly registered trademark or service mark, knowingly sells or traffics in the articles or who withholds the articles from the owner thereof with intent to defraud the owner thereof, is guilty of a class B misdemeanor.

13-1107. USE OF REGISTERED TRADEMARK WITHOUT CONSENT.

Every person who adopts or in any way uses the registered trademark of another, without the consent of the owner thereof, is guilty of a class B misdemeanor.

13-1110. GAMBLING.

13-1111. DEFINITIONS. For the purpose of this part:

A. "Gambling" means risking anything of value for a return or risking anything of value upon the outcome of a contest, game, gaming scheme or gaming device when the return or outcome is based upon an element of chance and is in accord with an agreement or understanding that someone will receive something of value in the event of a certain outcome, and gambling includes a lottery; gambling does not include:

1. A lawful business transaction; or
2. Playing an amusement device that confers only an immediate and unrecorded right of replay not exchangeable for value.

B. "Lottery" means any scheme for the disposal or distribution of property by chance among persons who have paid or promised to pay any valuable consideration for the chance of obtaining property or portion of it, or for any share or any interest in property

upon any agreement, understanding or expectation that it is to be distributed or disposed of by lot or change, whether called a lottery, raffle or gift surprise or by whatever name it may be known.

C. "Gambling bet" means money, checks, credit, or any other representation of value.

D. "Gambling device or record" means anything specifically designed for use in gambling or used primarily for gambling.

E. "Gambling proceeds" means anything of value used in gambling.

13-1112. GAMBLING.

A. A person is guilty of gambling if he:

1. Participates in gambling, or

2. Knowingly permits any gambling to be played, conducted or dealt upon or in any real or personal property owned, rented or under the control of the actor, whether in whole or in part.

B. Gambling is a class B misdemeanor.

13-1113. GAMBLING FRAUD.

A. A person is guilty of gambling fraud if he participates in gambling and wins or acquires to himself or another and gambling proceeds when he knows he has a lesser risk of losing or greater chance of winning than one or more of the other participants, and the risk is not known to all participants.

B. A person convicted of gambling fraud shall be punished as in the case of theft of property of like value, provided that the penalty shall not exceed a class B misdemeanor.

13-1114. GAMBLING PROMOTION.

A. A person is guilty of gambling promotion if he derives or intends to derive an economic benefit other than personal winnings from gambling and:

1. He induces or aids another to engage in gambling; or

2. He knowingly invests in, finances, owns, controls, supervises, manages or participates in any gambling.

B. Gambling promotion is a class B misdemeanor.

13-1115. POSSESSING A GAMBLING DEVICE OR RECORDS.

A. A person is guilty of possessing a gambling device or record if he knowingly possesses the same with intent to use it in gambling.

B. Possession of a gambling device or record is a class B misdemeanor.

13-1116. FAILURE OF PROSECUTING ATTORNEY OR LAW ENFORCEMENT OFFICER TO PROSECUTE OFFENSES.

Any prosecuting attorney or police officer who has substantial cause to believe that any person has violated any provision of this part and shall thereafter fail or refuse to diligently prosecute such persons is guilty of a class B misdemeanor.

13-1117. SEIZURE AND SALE OF DEVICES OR EQUIPMENT USED FOR GAMBLING.

A. Whenever the Justice of the Peace shall determine that any devices or equipment is used or kept for the purpose of being used for gambling, he may notify the City Council and/or Chief of Police and may authorize the Chief of Police to seize such devices and to hold them for sale at the best price obtainable, pending a hearing before the Justice of the Peace. After the hearing has been properly scheduled and all parties having an interest in the devices have been notified of the hearing, the Justice of the Peace may order the devices seized and declare them to be the property of Delta City. The court may then order the devices sold for the best price obtainable. The sale shall be made to a person of good character and repute who is a bona fide resident of a state wherein it is lawful to use such equipment. The officials conducting the sale shall place the equipment on a public carrier, properly co-signed to the purchaser at his place of residence or business in such other state.

B. The proceeds of any sale shall be paid to the municipal treasury.

C. If no sale is consummated within ninety (90) days after authorization therefore, the devices or equipment shall be destroyed under the direction of the Justice of the Peace.

13-1118. SEIZURE AND DISPOSITION OF GAMBLING DEBTS OR PROCEEDS.

A. At the commencement of any prosecution for a violation of this part any gambling bets or gambling proceeds which are reasonably identifiable as having been used or obtained in violation of this part may be seized and they shall be held pending the disposition of the proceedings. At the conclusion of the proceedings, any person who is found guilty of a violation of this part shall forfeit sums held by the Court which were acquired or being used in violation of this part. Any sums not identifiable, or in the event is found not guilty, the sums shall be returned to him.

B. A commencement of prosecution shall occur upon arrest, or issuance of an information, or citation, whichever occurs first.

C. All sums forfeited under this section shall be paid into the treasury of the municipality conducting the prosecution.

13-1119. CONFIDENCE GAME – PUNISHMENT AS FOR THEFT – DESCRIPTION IN CHARGE.

A. Any person who obtains or attempts to obtain from any other person any money or property by any means, instrument or device commonly called a confidence game shall be punished as in the case of theft of property of like value.

B. In every information or citation under this section, it shall be deemed and held a sufficient description of the offense to charge that the accused did, on _____ (insert the date) unlawfully and knowingly obtain or attempt to obtain (as the case may be) from _____ (insert the name of the person or persons defrauded or attempted to be defrauded) his money or property (as the case may be) by means and by use of a confidence game.

13-1200. PORNOGRAPHIC AND HARMFUL MATERIALS AND PERFORMANCES.

13-1201. DEFINITIONS. For the purpose of this part:

A. "Material" means anything printed or written or any picture, drawing, photograph, motion picture, or pictorial representation, or any statue or other figure, or any recording or transcription, or any mechanical, chemical or electrical reproduction, or anything which is or may be used as a means of communication. Material includes undeveloped photographs, molds, printing plates, and other latent representational objects.

B. "Performance" means any physical human bodily activity, whether engaged in along or with other persons, including but not limited to singing, speaking, dancing, acting, simulating or pantomiming.

C. "Distribute" means to transfer possession of materials whether with or without consideration.

D. "Knowingly" means an awareness, whether actual or constructive, of the character of material or of a performance. A person has constructive knowledge if a reasonable inspection or observation under the circumstances would have disclosed the nature of the subject matter and if a failure to inspect or observe is for the purpose of avoiding the disclosure or is criminally negligent.

E. "Exhibit" means to show.

F. "Nudity" means the showing of the human male or female genitals, pubic area, or buttocks, with less than a full, opaque covering, or the showing of a female breast with less than a full, opaque covering, or any portion thereof below the top of the nipple, or the depiction of covered male genitals in a discernibly turgid state.

G. "Sexual conduct" means acts of masturbation, homosexuality, sexual intercourse, or physical contact with a person's clothed or unclothed genitals, pubic area, buttocks,

or, if the person is a female, breast, whether alone or between members of the same or opposite sex or between humans and animals in an act of apparent or actual sexual stimulation or gratification.

H. "Sexual excitement" means a condition of human male or female genitals when in a state of sexual stimulation or arousal, or the sensual experiences of humans engaging in or witnessing sexual conduct or nudity.

I. "Sado-masochistic abuse" means flagellation or torture by or upon a person clad in undergarments, a mask, or in a revealing or bizarre costume, or the condition of being fettered, bound or otherwise physically restrained on the part of one so clothed.

J. "Minor" means any person less than 18 years of age.

K. "Harmful to minors" means that quality of any description or representation, in whatsoever form, of nudity, sexual conduct, sexual excitement, or sado-masochistic abuse when it:

(a) Taken as a whole, appeals to the prurient interest in sex of minors;

(b) Is patently offensive to prevailing standards in the adult community as a whole with respect to what is suitable material for minors; and

(c) Taken as a whole, does not have serious value for minors. Serious value includes only serious literary, artistic, political or scientific value for minors.

(d) "Contemporary community standards" means those current standards in the vicinage where an offense alleged under this act has occurred, is occurring, or will occur.

(e) "Public place" includes a place to which admission is gained by payment of a membership or admission fee, however designated, notwithstanding its being designated a private club or by words of like import.

13-1202. MATERIAL HARMFUL TO MINORS – NO EXPERT WITNESS REQUIRED.

A. In any prosecution dealing with an offense relating to harmful material to minors, the question whether the predominant appeal of the material is to prurient interest shall be determined with reference to average minors.

B. Neither the prosecution nor the defense shall be required to introduce expert witness testimony concerning the harmful character of the material or performance which is the subject of a prosecution.

13-1203. PORNOGRAPHIC MATERIAL OR PERFORMANCE – DETERMINATION OF PREDOMINANT APPEAL TO PRURIENT INTEREST – EXPERT TESTIMONY NOT REQUIRED.

A. Any material or performance is pornographic if:

1. The average person, applying contemporary community standards finds that, taken as a whole, it appeals to prurient interest in sex;

2. It is patently offensive in the description or depiction of nudity, sexual conduct, sexual excitement, sadomasochistic abuse or excretion; and

3. Taken as a whole it does not have serious literary, artistic, political or scientific value.

B. In prosecutions under this part, where circumstances of production, presentation, sale, dissemination, distribution, exhibition or publicity indicate that the matter is being commercially exploited by the defendant for the sake of its prurient appeal, this evidence is probative with respect to the nature of the matter and can justify the conclusion that, in the context in which it is used, the matter has no serious literary, artistic, political or scientific value.

C. Neither the prosecution nor the defense shall be required to introduce expert witness testimony as to whether the material or performance is or is not harmful to adults or minors or is or is not pornographic, or as to any element of the definition of pornographic, including contemporary community standards.

13-1204. DISTRIBUTING PORNOGRAPHIC MATERIAL.

A. A person is guilty of distributing pornographic material when he knowingly:

1. Sends or brings any pornographic material into Delta City with intent to distribute or exhibit it to others; or

2. Prepares, publishes, prints or possesses any pornographic material with intent to distribute or exhibit it to others; or

3. Distributes or offers to distribute, exhibits or offers to exhibit, any pornographic material; or

4. Writes, creates or solicits the publication or advertising of pornographic materials; or

5. Promotes the distribution or exhibition of material which he represents to be pornographic; or

6. Presents or directs a pornographic performance in any public place or any place exposed to public view or participates in that portion thereof which makes it pornographic.

Each distributing of pornographic material, as defined in this subsection A is a separate offense under this section. A separate offense shall be regarded as having been committed for each day of exhibition of any pornographic motion picture film and for

each day in which any pornographic publication is displayed or exhibited in a public place with intent to distribute or exhibit it to others.

B. Each separate offense under this section is a class B misdemeanor punishable by a minimum mandatory fine of not less than \$100 plus \$10 for each article exhibited up to a maximum of \$299.00 and by incarceration, without suspension of sentence in any way, for a term of not less than seven days.

13-1205. INDUCING ACCEPTANCE OF PORNOGRAPHIC MATERIAL.

A. A person is guilty of inducing acceptance of pornographic material when he knowingly:

1. Requires or demands as a condition to a sale, allocation, consignment or delivery for resale of any newspaper, magazine, periodical, book, publication or other merchandise that the purchaser or consignee receive any pornographic material or material reasonably believed by the purchaser or consignee to be pornographic; or
2. Denies, revokes or threatens to deny or revoke a franchise, or to impose any penalty, financial or otherwise, because of the failure or refusal to accept pornographic material or material reasonably believed by the purchaser or consignee to be pornographic.

B. A violation of this section is a class B misdemeanor punishable by a fine of not less than \$100.00 plus \$10.00 for each article or item delivered up to \$299.00 total fine and by incarceration, without suspension of sentence in any way, for a term of not less than 14 days.

13-1206. DEALING WITH HARMFUL MATERIAL TO A MINOR.

A. A person is guilty of dealing in harmful material when, knowing that a person is a minor or having failed to exercise reasonable care in ascertaining the proper age of a minor, he:

1. Knowingly distributes or offers to distribute, exhibits or offers to exhibit, any harmful material to a minor; or
2. Produces, presents or directs any performance before a minor, harmful to minors or participates in any performance before a minor, harmful to minors; or
3. Falsely pretends to be the parent or legal guardian of a minor and thereby causes the minor to be admitted to an exhibition or any harmful material.

B. This section does not prohibit any parent or legal guardian from distributing any harmful material to his minor child or ward or for permitting his minor child or ward to attend an exhibition of any harmful material if the minor child or ward is accompanied by him. This section does not prohibit a person from exhibiting any harmful material to a

minor child who is accompanied by his parent or legal guardian or by any person who he reasonably believes to be the parent or legal guardian of that child.

C. Each separate offense under this section is a class B misdemeanor punishable by a minimum mandatory fine of not less than \$100.00 plus \$10 for each article exhibited up to a maximum \$299.00 and by incarceration, without suspension of sentence in any way, for a term of not less than 14 days.

13-1207. ALLOWING PROPERTY OR LAND TO BE USED FOR LEWDNESS OR OBSCENITY.

It shall be unlawful for a landlord or landowner to willfully or knowingly allow his property or land to be used for the commercial exploitation of lewdness or obscenity.

A. If a tenant or occupant of real property uses this property for an activity for which he or his employees is convicted under any provision of this part, the conviction makes void the lease or other title under which he holds at the option of the fee owner or any intermediate lessor; and ten days after the fee owner or any intermediate lessor gives notice in writing to the tenant or occupant that he is exercising the option, the right of possession to the property reverts to the person exercising the option. This option does not arise until all avenues of direct appeal from the conviction have been exhausted or abandoned by the tenant or occupants, or his employee.

B. It shall be unlawful for a fee owner or intermediate lessor of real property to knowingly allow this property to be used for the purpose of distributing or exhibiting pornographic materials, or for pornographic performances, by a tenant or occupant if the tenant or occupant, or his employee, has been convicted under any provision of this part of an offense occurring on the same property and all avenues of direct appeal from the conviction have been exhausted or abandoned.

1. "Allow" under this subsection B means a failure to exercise the option arising under subsection A within ten days after the fee owner or lessor receives notice in writing from the city attorney, that the property is being used for a purpose prohibited by this subsection B.

2. A willful violation of this subsection B is a class B misdemeanor and any fine assessed, if not paid within 30 days after judgment, shall become a lien upon the property.

C. Any tenant or occupant who receives a notice in writing that the fee owner or intermediate lessor is exercising the option provided by subsection A and who does not quit the premises within ten days after the giving of that notice is guilty of a class B misdemeanor.

13-1208. AFFIRMATIVE DEFENSES.

The following shall be affirmative defenses to prosecution under this part:

A. It is an affirmative defense to prosecution under this part that the distribution or pornographic material was restricted to institutions or persons having scientific, educational, governmental or other similar justification for possessing pornographic material.

B. It is not a defense to prosecution under this part that the actor was a motion picture projectionist, usher, ticket-taker, bookstore employee or otherwise was required to violate any provision of this part incident to his employment.

13-1209. SEIZURE AND DISPOSITION OF PROHIBITED MATERIALS – INJUNCTIVE RELIEF AGAINST SALE AND DISTRIBUTION OF MATERIAL OR PERFORMANCES. RESERVED.

13-1210-1. Sexually Oriented Businesses - General Regulations.

It is unlawful for any Sexually Oriented Business or Sexually Oriented Business Employee to:

(a) Allow persons under the age of eighteen years on the licensed premises, except that in Adult businesses which exclude minors from less than all of the business premises, minors shall not be permitted to excluded areas;

(b) Allow, offer or agree to conduct any Out-Call business with persons under the age of eighteen years;

(c) Allow, offer or agree to allow any alcohol to be stored, used or consumed on or in the licensed premises.

(d) Allow the outside door to the premises to be locked while any customer is in the premises;

(e) Allow, offer or agree to gambling on the licensed premises;

(f) Allow, offer or agree to any Sexually Oriented Business employee touching any patron or customer, except that Out –Call employees and customers may touch except that any touching of specified anatomical areas, whether or not clothed or unclothed, is prohibited;

(g) Allow, offer or agree to illegal possession, use, sale or distribution of controlled substances on the licensed premises;

(h) Allow Sexually Oriented Business Employees to possess, use, sell or distribute controlled substances, while engaged in the activities of the business;

(i) Allow, offer or agree to commit prostitution, solicitation of prostitution, solicitation of a minor or committing activities harmful to a minor to occur on the licensed premises

or, in the event of an Out-Call employee or business, the Out-Call employee committing, offering or agreeing to commit prostitution, attempting to commit prostitution, soliciting prostitution, soliciting a minor, or committing activities harmful to a minor;

(j) Allow, offer, commit or agree to any sex act as validly defined by Delta City ordinances or state statute in the presence of any customer or patron;

(k) Allow, offer or agree to any Out-Call employee appearing before any customer or patron in a state of nudity;

(l) Allow offer or agree to allow a patron or customer to masturbate in the presence of the Sexually Oriented Business Employee or on the premises of a Sexually Oriented business.

(m) Not permit the Law Enforcement Department or other City official to have access at all times to all premises licensed or applying for a license under this chapter, or to make periodic inspection of said premises whether the officer or official is in uniform or plain clothes.

13-1210-2. Out-Call Services; Operation Requirements.

It is unlawful for any business or employee providing Out-Call services contracted for in Delta City to fail to comply with the following requirements:

(a) All businesses licensed to provide out-Call services pursuant to this chapter shall provide to each patron a written contract in receipt of pecuniary compensation for services. The contract shall clearly state the type of services to be performed; the length of time such services shall be performed, the total amount such services shall cost the patron, and any special terms or conditions relating to the services to be performed. The contract need not include the name of the patron. The business licensee shall keep and maintain a copy of each written contract entered into pursuant to this section for a period not less than one year from the date of provision of services thereunder. The contracts shall be numbered and entered into a register listing the contract number, date, names of all employees involved in the contract and pecuniary compensation paid.

(b) All Out-Call Businesses licensed pursuant to this ordinance shall maintain an open office or telephone at which the licensee or licensee's designated agent may be personally contacted during all hours Out-Call employees are working. The address and phone number of the licensed location shall appear and be included in all patron contracts and published advertisements. For Out-Call businesses which premises are licensed within the corporate limits of the City, private rooms or booths where the patron may meet with the Out-Call employee shall not be provided at the open office or any other location by the service, nor shall patrons meet Out-Call employees at the business premises.

(c) Out-Call services shall not advertise in such a manner that would lead a reasonably prudent person to conclude that Specified Sexual Activities would be performed by the Out-Call employee.

13-1210-3. Nude Entertainment Business; Interior Design.

(a) It is unlawful for business premises licensed for Nude entertainment to:

(1) Permit a bed, sofa, mattress or similar item in any room on the premises except that a sofa may be placed in a reception room open to the public or in any office to which patrons are not admitted, and except that in an Adult Theater such items may be on the stage as part of a performance;

(2) Allow any door on any room used for the business, except for the door to an office to which patrons shall not be admitted, outside doors and rest room doors to be lockable from the inside;

(3) Provide any room in which the employee or employees and the patron or patrons are alone together without a separation by a solid physical barrier at least three feet high and six inches wide. The patron or patrons shall remain on one side of the barrier and the employee or employees shall remain on the other side of the barrier;

(4) Adult Theaters shall also require that the performance area shall be separated from the patrons by a minimum of three feet, which separation shall be delineated by a physical barrier at least feet high.

13-1210-4. Nude Entertainment Businesses; Additional Location Restrictions.

It is unlawful for any business licensed for adult businesses or Nude Entertainment to be located within 1,000 feet of a school, church. Residence, similar business, or business licensed for the sale or consumption of alcohol.

13-1210-5. Defense to Prosecution.

It is a defense to prosecution for a violation under this ordinance that a person appearing in a state of nudity did so in a modeling class operated:

(a) By a proprietary school licensed by the State of Utah or a college, junior college or university supported entirely or partly by taxation;

(b) By a private college or university which maintains and operates educational programs in which credits are transferable to a college, junior college, or university supported entirely or partly by taxation.

13-1210-6. Semi-Nude Dancing on Licensed Business.

It is unlawful for any person to perform in a state of semi-nudity as a professional dancer, model, performer or otherwise on the premises of a business licensed as a sexually

oriented business, either gratuitously or for compensation, unless that person is licensed as a Sexually Oriented Business employee.

13-1210-7. Nude and Semi- Nude Dancing Agency.

(a) It is unlawful for any individual or entity to furnish, book or otherwise engage the services of a professional dancer, model or performer to appear in a state of semi-nudity or nudity for pecuniary compensation in, or for, any nude entertainment business or adult theater licensed pursuant to this chapter unless such agency is licensed pursuant to this ordinance.

(b) It is unlawful for any individual or entity to furnish, book or otherwise engage or permit any person to perform as a professional dancer, model, or performer in a state of semi-nudity or nudity, either gratuitously or for compensation, in, or for, any business licensed pursuant to this chapter unless such person is licensed pursuant to this chapter.

13-1210-8. Activities of Dancers.

It is unlawful for any professional dancer, model or performer, while performing in any business licensed pursuant to this chapter:

- (a) To touch in any manner any other person;
- (b) To throw any object or clothing off the stage area;
- (c) To accept any money, drink or any other object directly from any person;
- (d) To allow another person to touch such performer or to place any money or object on the performer or within the costume or person of the performer, or
- (e) For the performer to place anything within the costume or adjust or move the costume while performing so as to render the performer in a state of nudity.

13-1210-9. Activities of Patrons.

It is unlawful for any person, or any patron of any business to touch in any manner any performer, to place any money or object on or within the costume or person of any performer, or to give or offer to give to any such performer any drinks, money or object while such performer is performing; except that money may be placed on the stage which shall not be picked up by the performer except by hand.

13-1210-10. Obscene Conduct in Places of Business.

It shall be unlawful for any owner, operator, or manager or lessee, or any agent, partner, associate, or employee of such owners, operator, manager, or lessee, of any place of business, business which is licensed and regulated by Delta City, to allow or permit an entertainer, employee, patron, or any other person to appear in or on said place of business naked, or in indecent attire or lewd dress except in such businesses

licensed as nude entertainment businesses pursuant to the Sexually Oriented Business License Ordinance or to make any obscene exposure of his or her person.

13-1210-11. Offense Constituting Strict Liability.

It shall be unlawful and constitute an offense of strict liability for any such dancer or entertainer or other person to enter said place of business naked or so clothed as to expose at any time of appearance the genitals, pubic area, anus or female tittle or areola.

13-1210-12. Violations-Penalties.

In addition to revocation or suspension of a license, as provided in this chapter, each violation of this chapter shall, upon citation by the City Business License Officer, require the licensee to pay a civil penalty in the amount of \$500.00. Such fines shall be deducted from the cost bond posted pursuant to Title 9, unless paid within ten days of notice of the fine or the final determination after any appeal. In addition to the civil fines provided in this chapter, the violation of any provision of this ordinance shall be a class "B" misdemeanor. Each day of violation shall be considered a separate offense.

13-1210-13. Injunction.

An entity or individual who operates or causes to be operated a Sexually Oriented Business, without a valid license, or who employs, or is employed as an employee of a Sexually oriented business or who operates such a business or functions as such an employee in violation of the provisions of this chapter, is subject to a suit for injunction in addition to the civil and criminal violations provided herein and any other remedy available at law or in equity.

13-1210-14. Suspension or Revocation.

(a) The City may issue a notice suspending or revoking a sexually oriented business license or employee license granted under this chapter if a licensee, or an employee of the licensee, has

- (1) Violated or is not in compliance with this chapter;
- (2) Has refused to allow any inspection of the premises of the Sexually Oriented business specifically authorized by this chapter, or by any other statute or ordinance;
- (3) Has failed to replenish the cost bond as provided in Title 9; such a suspension shall extend until the bond has been replenished;
- (4) A licensee or employee gave materially false or misleading information in obtaining the license;

- (5) A licensee or an employee knowingly operated the Sexually Oriented Business or worked under the employee license during the period when the business licensee or employee licensee's license was suspended;
- (6) A licensee has committed an offense which would be grounds for denial of a license for which the time period required has not elapsed.
- (7) On two or more occasions within a twelve-month period, a person or persons committed or solicited an offense in or on the licensed premises, or an Out-Call employee solicited or committed on or off the premises, an offense which would be grounds for denial of a license for which a conviction has been obtained, and the person or persons were employees, whether or not licensed of the Sexually Oriented Business at the time the offenses were committed;
- (8) A licensee is delinquent in payment to the City for ad valorem taxes, or sales taxes related to the Sexually Oriented Business.
- (b) Suspension or revocation shall take effect within ten days of the issuance of notice unless an appeal is filed as provided by this chapter.
- (c) The fact that a conviction is being appealed shall have no effect on the revocation of the license.

13-1210-15. Effect of Revocation.

When a license issued pursuant to this ordinance is revoked, the revocation shall continue for one year from its effective date and the licensee shall not be issued a Sexually Oriented Business or Employee license for one year from the date of such revocation.

13-1210-16. Appeal.

- (a) If the license is denied or approved with qualifications, or if a notice of suspension, revocation, or citation of a civil fine is imposed, the applicant or licensee may file an appeal with the Business License Officer.
- (b) Filing of an appeal must be within ten days of the date of service of the notice of any denial, qualified approval, suspension, revocation or civil fine. Upon receiving the notice of such appeal, the Business Licensing Officer shall schedule a hearing before a designated appeals board within twenty days of the date of the appeal unless such time shall be extended for good cause.
- (c) The appeals board shall hold a public hearing on the record and take such facts and evidence as necessary to determine whether the denial, qualified approval, suspension, revocation or civil fine was proper under the law.
- (d) The burden of proof shall be on the city.

(e) After the hearing, the appeals board shall have seven working days unless extended for good cause, in which to render findings of fact, conclusions of law, and recommend a decision to the Mayor.

(f) Either party may object to the recommendation of the appeals board by filing the party's objection and reasons, in writing, to the Mayor within seven days following the recommendation. In the event the appeals board recommends upholding a suspension or revocation, the license shall be immediately suspended and shall remain suspended until any subsequent appeal is decided. If no objections are received within the seven days, the Mayor may immediately adopt the recommendation of the appeals board.

(g) If objections are received, the Mayor shall have ten working days to consider such objections before issuing the Mayor's final decision. The Mayor may, in the Mayor's discretion, take additional evidence or require written memoranda on issues of fact or law. The standard by which the Mayor shall review the decision of the appeals board is whether substantial evidence exists in the record to support the appeals board recommendation. In the event the Mayor determines there is not substantial evidence to support the appeals board recommendation, the appeals board recommendation shall be vacated.

(h) An applicant aggrieved by the Mayor's decision shall have judicial review of such decision pursuant to Rule 65B, Utah Rules of Civil Procedure, or any other applicable statute or rule providing for such review.

13-1210-17. Amendment.

It is hereby declared that none of the provisions contained in this chapter shall vest any rights in any person, unincorporated association, corporation, partnership or other legal entity and may be amended by the City Council at any time.

13-1300. PROSTITUTION.

13-1301. DEFINITIONS. For the purpose of this part:

A. "Sexual activity" means intercourse or any sexual act involving the genitals of one person and the mouth or anus of another person, regardless of the sex of either participant.

B. "House of prostitution" means a place where prostitution or promotion of prostitution is regularly carried on by one or more persons under the control, management or supervision of another.

C. "Inmate" means a person who engages in prostitution in or through the agency of a house of prostitution.

D. "Public place" means any place to which the public or any substantial group thereof has access.

13-1302. PROSTITUTION.

A. A person is guilty of prostitution when:

1. He engages or offers or agrees to engage in any sexual activity with another person for a fee; or
2. Is an inmate of a house of prostitution; or
3. Loiters in or within view of any public place for the purpose of being hired to engage in sexual activity.

B. Prostitution is a class B misdemeanor.

13-1303. PATRONIZING A PROSTITUTE.

A. A person is guilty of patronizing a prostitute when:

1. He pays or offers or agrees to pay another person a fee for the purpose of engaging in an act of sexual activity; or
2. He enters or remains in a house of prostitution for the purpose of engaging in sexual activity.

B. Patronizing a prostitute is a class C misdemeanor.

13-1304. AIDING PROSTITUTION.

A. A person is guilty of aiding prostitution if he:

1. Solicits a person to patronize a prostitute; or
2. Procures or attempts to procure a prostitute for a patron, or
3. Leases or otherwise permits a place controlled by the actor, alone or in association with another, to be used for prostitution or the promotion of prostitution; or
4. Solicits, receives or agrees to receive any benefit for doing any of the acts prohibited by this subsection.

B. Aiding prostitution is a class B misdemeanor.

13-1305. EXPLOITING PROSTITUTION.

A. A person is guilty of exploiting prostitution if he:

1. Procures an inmate for a house of prostitution or place in a house of prostitution for one who would be an inmate; or

2. Encourages, induces or otherwise purposely causes another to become or remain a prostitute; or
3. Transports a person into or within Delta City with a purpose to promote that person's engaging in prostitution or procuring or paying for transportation with that purpose; or
4. Not being a child or legal dependent of a prostitute, shares the proceeds of prostitution with a prostitute, pursuant to their understanding that he is to share therein.
5. Owns, controls, manages, supervises or otherwise keeps alone or in association with another a house of prostitution or a prostitute house.

13-1306. RESERVED.

13-1307. PERVERSION. It shall be a class B misdemeanor for any person to:

- A. Commit or offer or agree to commit a lewd act or an act of moral perversion.
- B. Secure or offer another for the purpose of committing a lewd act or an act of moral perversion.
- C. Be in or near any place frequented by the public, or any public place, for the purpose of inducing, enticing or procuring another to commit a lewd act or any act of prostitution or moral perversion.
- D. Make a meretricious display in or near any public place, any place frequented by the public, or any place open to the public view.
- E. Knowingly transport any person to any place for the purpose of committing a lewd act or an act of moral perversion.
- F. Knowingly receive or offer or agree to receive any person into any place or building for the purpose of performing a lewd act, or an act of moral perversion, or to knowingly permit any person to remain in any place or building for any such purpose.
- G. Direct or offer to direct any person to any place or building for the purpose of committing any lewd act or act of prostitution or moral perversion.
- H. Aid, abet, allow, permit or participate in the commission of any of the acts prohibited in subsections A through G above.

13-1400. CONTROLLED SUBSTANCES.

13-1401. SHORT TITLE.

This chapter may be cited as the Delta City Controlled Substances Ordinance.

13-1402. DEFINITIONS. As used in this chapter:

(1) The word "administer" means the direct application of controlled substance, whether by injection, inhalation, ingestions or any other means, to the body of a patient or research subject by:

(a) A practitioner or, in his presence, by his authorized agent, or

(b) The patient or research subject at the direction and in the presence of the practitioner.

(2) The word "agent" means an authorized person who acts on behalf of or at the direction of a manufacturer, distributor or practitioner but does not include a common or contract carrier, public warehouseman or employee thereof.

(3) The words "drug dependent person" means any individual who unlawfully and habitually uses any controlled substance to endanger the public morals, health, safety or welfare, or who is so far dependent upon the use of controlled substances as to have lost the power of self-control with reference to his dependency.

(4) The word "control" means to add, remove or change the placement of a drug, substance or immediate precursor under Section 58-37-3.

(5) The words "controlled substance" means a drug, substance or immediate precursor included in schedules I, II, III, IV or V of Section 58-37-4, Utah Code Annotated (1953), as amended, "Controlled Substances Act (Title II, P.L. 91-513), as such schedules may be revised to add, delete or transfer substances from one schedule to another, whether by Congressional enactment or by administrative rule of the United States Attorney General adopted pursuant to Section 201 of that act. The words do not include distilled spirits, wine or malt beverages, as those terms are defined or used in Title 32 Utah Code Annotated (1953), as amended, tobacco or food.

(6) The word "deliver" or "delivery" means the actual constructive or attempted transfer of a controlled substance, whether or not there exists an agency relationship.

(7) The word "dispense" or "prescribe" means the delivery of a controlled substance by a pharmacist to an ultimate user pursuant to the lawful order of a practitioner, and the term includes distributing to, leaving with, giving away or disposing of that substance as well as the packaging, labeling or compounding necessary to prepare the substance for delivery. The word "dispenser" means a pharmacist who dispenses a controlled substance.

(8) The word "distribute" means to deliver other than by administering or dispensing a controlled substance. "Distribute for value" means to deliver a controlled substance in exchange for compensation, consideration or item of value or a promise therefor. The word "distributor" means a person who distributes controlled substances.

(9) The word "department" means the Utah Department of Business Regulation.

(10) The word "manufacture" means the production, preparation, propagation, compounding or processing of a controlled substance, either directly or indirectly by extraction from substances of natural origin, or independently by means of chemical synthesis or by a combination of extraction and chemical synthesis. The word "manufacturer" includes any person who packages, repackages or labels any container of any controlled substance, except pharmacists who dispense or compound prescription orders for delivery to the ultimate consumer.

(11) The word "production" means the manufacture, planting, cultivation, growing or harvesting of a controlled substance.

(12) The word "practitioner" means a physician, dentist, veterinarian, pharmacist, scientific investigator, pharmacy, hospital or other person licensed, registered or otherwise permitted to distribute, dispense, conduct research with respect to, administer or use in teaching or chemical analysis a controlled substance in the course of professional practice or research in this state.

(13) The words "ultimate user" means any person who lawfully possesses a controlled substance for his own use or for the use of a member of his household or for administration to an animal owned by him or a member of his household.

(14) The word "state" means the State of Utah.

(15) The word "person" means any corporation, association, partnership, trust, other institution or entity or one or more individuals.

(16) The word "drug" means:

(a) Articles recognized in the official United States Pharmacopoeia, Official Homeopathic pharmacopoeia of the United States or Official National Formulary or any supplement to any of them;

(b) Articles intended for use in the diagnosis, cure, mitigation, treatment or prevention of disease in man or other animals;

(c) Articles, other than food, intended to affect the structure or function of man or other animals;

(d) Articles intended for use as a component of any articles specified in clause (a), (b) or (c) of this paragraph; but does not include devices or their components, parts or accessories.

(17) The words "depressant" or "stimulant substance" mean:

(a) A drug which contains any quantity of:

(i) Barbituric acid or any of the salts of barbituric acid; or

(ii) Any derivative of barbituric acid which has been designated by the secretary as habit-forming under Section 502(d) of the Federal Food, Drug and Cosmetic Act (21 USC 352(d)).

(b) A drug which contains any quantity of:

(i) Amphetamine or any of its optical isomers; or

(ii) Any salt of amphetamine or any salt of an optical isomer of amphetamine; or

(iii) Any substance which the Secretary of Health, Education and Welfare or the Attorney General of the United States after investigation has found any by regulation designated habit-forming because of its stimulant effect on the central nervous system; or

(c) Lysergic acid diethylamide; or

(d) Any drug which contains any quantity of substance which the Secretary of Health, Education and Welfare or the Attorney General of the United States after investigation has found to have, and by regulation designated as having, a potential for abuse because of its depressant or stimulant effect on the central nervous system or its hallucinogenic effect.

(18) The words "narcotic drug" means any of the following, whether produced directly or indirectly by extraction from substances of vegetable origin, or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis:

(a) Opium, coca leaves and opiates;

(b) A compound, manufacture, salt, derivative or preparation of opium, coca leaves or opiates;

(c) Opium poppy and poppy straw;

(d) A substance (and any compound, manufacture, salt, derivative or preparation of the substance) which is chemically identical with any of the substances referred to in clause (a), (b) or (c), except the words "narcotic drugs" do not include de-cocainized coca leaves or extracts of coca leaves which do not contain cocaine or ecgonine.

(19) The word "opiate" means any drug or other substance having an addiction-forming or addiction-sustaining liability similar to morphine or being capable of conversion into a drug having addiction-forming or addiction-sustaining liability.

(20) The words "opium poppy" means the plant of the species *Papaver somniferum* L., except the seeds thereof.

(21) The word "poppy straw" means all parts, except the seeds, of the opium poppy, after mowing.

(22) The words "immediate precursor" means a substance with the Attorney General of the United States has found to be, and by regulation designated as being, the principal compound used or produced primarily for use in the manufacture of a controlled substance; or which is an immediate chemical intermediary control of which is necessary to prevent, curtail or limit the manufacture of such controlled substance.

(23) The words "counterfeit substance" means any controlled substance or container or labeling of any controlled substance that, without authorization bears the trademark, trade name or other identifying mark, imprint, number or device or any likeness thereof, of a manufacturer, distributor, or dispenser other than the person or persons who in fact manufactured, distributed or dispensed the substance which thereby falsely purports or is represented to be the product of, or to have been distributed by, such other manufacturer, distributor or dispenser.

(24) The word "marijuana" means all parts of the plant *cannabis sativa* L. whether growing or not; the seeds thereof; the resin extracted from any part of such plant; and every compound, manufacture, salt, derivative, mixture or preparation of such plant, its seeds or resin. Such term does not include the mature stalks of such plant, fiber produced from such stalks, oil or cake made from the seeds of such plant, any other compound, manufacture, salt, derivative, mixture or preparation of such mature stalks (except the resin extracted therefrom), fiber, oil or cake, or the sterilized seed of such plant which is incapable of germination. Any synthetic equivalents of the substances contained in the plant *cannabis sativa* which are chemically indistinguishable and pharmacologically active shall also be included.

(25) The word "possession" or "use" means the joint or individual ownership, control, occupancy, holding, retaining, belonging, maintaining, obtaining or the application, inhalation, swallowing, injection or consumption, as distinguished from distribution of controlled substances and is intended to include individual, joint or group possession or use of controlled substances. For a person to be a possessor or user of a controlled substance, it is not required that he be shown to have individually possessed, used or controlled the substance, but it is sufficient if it is shown that he jointly participated with one or more persons in the use, possession or control of any substances with knowledge that such activity was occurring.

(26) The word "food" shall mean:

(a) Any nutrient or substances of plant, mineral or animal origin other than a drug as specified in this act normally ingested by human beings, and

(b) Foods for special dietary uses such as shall exist by reason of a physical, physiological, pathological or other condition including but not limited to the conditions of disease, convalescence, pregnancy, lactation, allergy, hypersensitivity to food, underweight and overweight; uses for supplying a particular dietary need which shall

exist by reason of age including but not limited to the ages of infancy and childbirth and also uses for supplementing and for fortifying the ordinary or unusual diet with any vitamin, mineral or other dietary property for use of a food. Any such particular use of a food is a special dietary use regardless of the nutritional purposes.

(27) The word "moneys" means officially issued coin and currency of the United States or any foreign country.

(28) The words "negotiable instrument" means documents, containing an unconditional promise to pay a sum of money, which can be legally transferred to another party by endorsement or delivery.

(29) The word "securities" means any stocks, bonds, notes or other evidences of debt or of property.

(30) The word "proceeds" means whatever is received when an object is sold, exchanged or otherwise disposed of.

This act does not infringe upon the rights of citizens to purchase and use herbs and food supplements of vegetable origin and does not restrict the non-allopathic practitioners, the herbalist, and the massage therapists.

13-1403. SUBSTANCES WHICH ARE CONTROLLED – REVISED FEDERAL SCHEDULES GOVERN.

(1) All controlled substances listed in Section 58-37-4, Utah Code Annotated (1953), amended from time to time by the Utah Legislature, are hereby controlled.

(2) All controlled substances listed in the Federal Controlled Substances Act (Title II, P.L. 91-513), as it is amended from time to time, are hereby controlled.

(3) Whenever any substance is designated, rescheduled or deleted as a controlled substance in schedules I, II, III, IV or V of the Federal Controlled Substances Act (Title II, P.L. 91-513), as such schedules may be revised by Congressional enactment or by administrative rule of the United States Attorney General adopted pursuant to Section 201 of that act, that subsequent designation, rescheduling or deletion shall govern.

13-1404. SCHEDULE OF CONTROLLED SUBSTANCES.

The schedule of controlled substances for the purposes of this chapter shall be the schedule of controlled substances set out in Section 58-37-4, Utah Code Annotated (1953) as amended from time to time by the Utah Legislature. The intent of this provision is that the schedule of controlled substances for the purpose of this chapter shall be consistent and uniform with the schedule of controlled substances as defined by Utah statute. An amendment to or modification of the schedules set forth in Section 58-37-4,

Utah Code Annotated (1953) 1983 supplement, should be considered an amendment to the list of controlled substances as provided for in this chapter.

13-1405. PROHIBITED ACTS – PENALTIES.

(1) Except as authorized by this act, it shall be unlawful for any person knowingly and intentionally:

(a) To produce, manufacture or dispense, or to possess with intent to produce, manufacture or dispense, a controlled or counterfeit substance;

(b) To distribute for value or possess with intent to distribute for value a controlled or counterfeit substance;

(c) To possess a controlled substance in the course of his business as a sales representative of a manufacturer or distributor of substances enumerated in schedules II through V except pursuant to an order or prescription;

(d) To agree, consent, offer or arrange to distribute or dispense a controlled substance for value or to negotiate to have a controlled substance distributed or dispensed for value and distribute; dispense or negotiate the distribution or dispensing of any other liquid, substance or material in lieu of the specific controlled substance so offered, agreed, consented, arranged or negotiated.

(2) It shall be unlawful:

(a) For any person knowingly and intentionally to possess or use a controlled substance, unless it was obtained pursuant to a valid prescription or order or directly from a practitioner which acting in the course of his professional practice, or except as otherwise authorized by this subsection.

(b) For any owner, tenant, licensee or person in control of any building, room, tenement, vehicle, boat, aircraft or other place, knowingly and intentionally to permit the same to be occupied by persons unlawfully possessing, using or distributing controlled substances therein.

(c) For any person knowingly and intentionally to be present where controlled substances are being used or possessed in violation of this chapter and the use or possession is open, obvious, apparent and not concealed from those present. No person shall be convicted under this subsection if the evidence shows that he did not use the substance himself or advise, encourage or assist anyone else to do so; provided, any incidence of prior unlawful use of controlled substances by the defendant may be admitted to rebut this defense.

(d) For any person knowingly and intentionally to possess an altered or forged prescription or written order for a controlled substance.

(e) For a practitioner licensed in accordance with this act knowingly and intentionally to prescribe, administer or dispense a controlled substance to a juvenile without first obtaining the consent of a parent or guardian of the juvenile except in cases of an emergency. For purposes of this subsection, a juvenile is a "child" as defined in section 78-3A-2(3) and "emergency" shall mean any physical condition requiring the administration of a controlled substance for immediate relief of pain or suffering.

(f) For a practitioner licensed in accordance with this act knowingly and intentionally to prescribe or administer dosages of a controlled substance in excess of medically recognized quantities necessary to treat the ailment, malady or condition to the ultimate user.

(g) For any person to prescribe, administer or dispense any controlled substance to another person knowing that the other person is using a false name, address or other personal information for the purpose of securing the same.

(3) It shall be unlawful for any person:

(a) Who is subject to the requirements of this chapter to distribute or dispense a controlled substance in violation of this chapter;

(b) Who is a licensee to manufacture, distribute or dispense a controlled substance to another licensee or another authorized person not authorized by his license;

(c) To omit, remove, alter or obliterate a symbol required by this chapter or a regulation issued pursuant to this chapter;

(d) To refuse or fail or make, keep or furnish any record, notification, order form, statement, invoice or information required under this chapter;

(e) To refuse entry into any premises for inspection as authorized by this chapter;

(4) It shall be unlawful for any person knowingly and intentionally:

(a) To use in the course of the manufacture or distribution of a controlled substance a license number which is fictitious, revoked, suspended or issued to another person or, for the purpose of obtaining a controlled substance, to assume the title of, or represent himself to be, a manufacturer, wholesaler, apothecary, physician, dentist, veterinarian or other authorized person.

(b) To acquire or obtain possession of, to procure or attempt to procure the administration of, or to prescribe to any person known to be attempting to acquire or obtain possession of or procure the administration of, any controlled substance by misrepresentation, fraud, forgery, deception, subterfuge, alteration of a prescription or written order for a controlled substance, or the use of a false name or address.

(c) To make any false or forged prescription or written order for a controlled substance, or to utter the same or to alter any prescription or written order issued or written pursuant to the terms of this chapter.

(d) To furnish false or fraudulent material information in any application, report, or other document required to be kept by this chapter, or to willfully make any false statement in any prescription, order, report or record required by this chapter.

(e) To make, distribute or possess any punch, die, plate, stone or other thing designed to print, imprint or reproduce the trade-mark, trade name or other identifying mark, imprint or device of another or any likeness of any of the foregoing upon any drug or container or labeling so as to render any drug a counterfeit controlled substance.

(5) Notwithstanding other provisions of this section, it shall be unlawful for any person not authorized by the provisions of this chapter to distribute for value a controlled substance to a person under 21 years of age.

(6) Any person who violates subsection 2(a) of this section shall be fined not more than \$299 or imprisoned in jail for not more than six months, or both

(7) Any violation of this chapter for which no penalty is specifically prescribed shall be deemed a class B misdemeanor.

(8) Any person who attempts or conspires to commit any offense made unlawful by this chapter shall, upon conviction, be punished by a fine or imprisonment, or both, not to exceed one-half of the maximum punishment prescribed for the offense, the commission of which was the object of the attempt or conspiracy.

(9) Any penalty imposed for violation of this section shall be in addition to, and not in lieu of, any civil or administrative penalty or sanction authorized by law. Where violation of this ordinance violates federal law or the law of the State of Utah or another state or the ordinances of another municipality, conviction or acquittal under federal law or the law of Utah or another state or municipality for the same act is a bar to prosecution in this state.

(10)

(a) Whenever it appears to the court at the time of sentencing any person convicted under this act that the person has previously been convicted of an offense under the laws of this state, the United States, or the State of Utah or another state, which if committed in this municipality would be an offense within this chapter and it appears that probation would be contrary to the interest, welfare, to protection of society, the court, notwithstanding the provisions of Section 77-35-20, Utah Code Annotated (1953), as amended, may, providing compliance with subsection 10 (b) of this section has been met,

impose a minimum term to be served by the defendant up to one-half the maximum sentence imposed by law for the offense so committed.

(b) Before any person may be sentenced to a minimum term as provided in subsection 5 (b) of this section, the prosecuting attorney or grand jury, if an indictment, shall cause to be subscribed upon the citation, in misdemeanor cases, or the information or indictment, in addition to the substantive offense charged, a statement setting forth the alleged past convictions of the defendant and specifically stating the date and place of conviction and the offense to which the defendant was convicted. The allegation shall be presented to the defendant at the time of his arraignment, or thereafter by leave of court, but in no allegation of the previous conviction to the defendant and provide him or his counsel with a copy of the same and explain to the defendant the consequences of the allegation pursuant to subsection 10 (a) of this section. The allegation of the past conviction of the defendant shall not be admissible in a jury trial, except where the admissibility in evidence of a previous conviction is otherwise recognized as admissible by law.

(c) The court, following conviction of the defendant of the substantive offense charged and prior to imposing sentence, shall inform the defendant of its decision to impose a minimum sentence within subsection 10 (a) of this section and inquire as to whether the defendant admits or denies the previous conviction. If the defendant denies the previous conviction, the court shall afford him an opportunity to present evidence showing that the allegation of the past conviction is erroneous or the conviction was fully vacated or the defendant was pardoned. Such evidence shall be made a matter of record and following the evidence the court shall make a finding as to whether the defendant has a previous conviction. The defendant shall be sentenced in accordance with subsection 10 (a) of this section or under the appropriate penalty provided by law, as the court in its discretion shall determine.

(d) Any person sentenced on a second offense to probation who violates that probation shall be subject to the provisions of subsection 10 (a) and 10 (b) of this section.

(e) Nothing in this section shall in any way limit or restrict the provisions of Sections 76-8-1001 and 76-8-1002, Utah Code Annotated (1953), as amended.

(11) Whenever any person who has not been previously convicted of an offense under this subsection relating to the unlawful use, possession, production, manufacture, distribution or dispensation of any controlled substance pleads guilty or is found guilty of possession of a controlled substance under subsection 2 (a) of this section, the court may, without entering a judgment of guilt and with the consent of the person, defer further proceedings and place him on probation upon any reasonable terms and conditions as it may require. If the person violates any term or condition of probation, the court may enter an adjudication of guilt and impose the sentence of the court for the

offense committed. Upon fulfillment of the terms and conditions of probation, the court shall discharge the person and dismiss the proceedings against him. Discharge and dismissal shall be without court adjudication of guilt and shall not be deemed a conviction for purposes of disqualifications or disabilities imposed by law for conviction of crime including the additional penalties imposed for second or subsequent convictions under subsection 10 (a) of this section. Discharge and dismissal under this section may occur only once with respect to any person.

(12) In any prosecution for a violation of this act, evidence or proof which shows a person or persons produced, manufactured, possessed, distributed or dispensed a controlled substance or substances, shall be prima facie evidence that that person or persons did so with knowledge of the character of the substance or substances.

(13) Nothing in this section shall be construed to prohibit a veterinarian, in good faith and in the course of his professional practice only and not for humans, from prescribing, dispensing or administering controlled substances or from causing such substances to be administered by an assistant or orderly under his direction and supervision.

13-1406. PROPERTY SUBJECT TO FORFEITURE – SEIZURE – PROCEDURE.

(1) The following shall be subject to forfeiture and no property right shall exist in them:

(a) All controlled substances which have been manufactured, distributed, dispensed or acquired in violation of law;

(b) All property used or intended for use as a container for property described in subsections 1 (a) and 1 (b) of this section;

(c) All hypodermic needles, syringes and other paraphernalia, not to include capsules used with health food supplements and herbs, used or intended for use to administer controlled substances in violation of this chapter;

(d) All imitation controlled substances as defined in the Imitation Controlled Substances Act.

(2) Any property subject to forfeiture under this chapter may be seized by any peace officer of this jurisdiction upon process issued by any court having jurisdiction over the property. However, seizure without process may be made when:

(a) The seizure is incident to an arrest or search under a search warrant or an inspection under an administrative inspection warrant;

(b) The property subject to seizure has been the subject of a prior judgment in favor of Delta City in a criminal injunction or forfeiture proceeding under this act;

(c) The peace officer has probable cause to believe that the property is directly or indirectly dangerous to health or safety; or

(d) The peace officer has probable cause to believe that the property has been used or intended to be used in violation of this chapter.

(3) Property taken or detained under this section shall not be repleviable but shall be deemed to be in custody of the law enforcement agency making the seizure subject only to the orders and decrees of the court or the official having jurisdiction. Whenever property is seized under the provisions of this act the appropriate person or agency may:

(a) Place the property under seal;

(b) Remove the property to a place designated by it or the warrant under which it was seized;

(c) Take custody of the property and remove it to an appropriate location for disposition in accordance with law.

(4) All substances listed in schedule I that are possessed, transferred, distributed or offered for distribution in violation of this chapter shall be deemed contraband and seized and summarily forfeited to the State of Utah. Similarly, all substances listed in schedule I which are seized or come into the possession of Delta City shall be deemed contraband and summarily forfeited to the State of Utah if the owners are unknown.

(5) All species of plants from which controlled substances in schedules I and II are derived, which have been planted or cultivated in violation of this act, or of which the owners or cultivators are unknown, or are wild growths, may be seized and summarily forfeited to the State of Utah.

13-1500. DRUG PARAPHERNALIA.

13-1501. SHORT TITLE.

This chapter may be known and cited as the Delta City Drug Paraphernalia Ordinance.

13-1502. PURPOSE.

It is the intent of this chapter to discourage the use of narcotics by eliminating paraphernalia designed for processing, ingesting or otherwise using a controlled substance.

13-1503. "DRUG PARAPHERNALIA" DEFINED. As used in this chapter:

Drug paraphernalia" means any equipment, product or material used, or intended for use, to plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce, process, prepare, test, analyze, package, repackage, store, contain, conceal,

inject, ingest, inhale or to otherwise introduce a controlled substance into the human body in violation of chapter 13-1400, and includes, but is not limited to:

- (1) Kits used, or intended for use, in planting, propagating, cultivating, growing or harvesting any species of plant which is a controlled substance or from which a controlled substance can be derived.
- (2) Kits use, or intended for use, in manufacturing, compounding, converting, producing, processing, or preparing a controlled substance;
- (3) Isomerization devices used, or intended for use, to increase the potency of any species of plant which is a controlled substance;
- (4) Testing equipment used, or intended for use, to identify or to analyze the strength, effectiveness or purity of a controlled substance;
- (5) Scales and balances used, or intended for use, in weighing or measuring a controlled substance;
- (6) Diluents and adulterants, such as quinine hydrochloride, mannitol, mannited, dextrose and lactose, used, or intended for use to cut a controlled substance;
- (7) Separation gins and sifters used, or intended for use to remove twigs, seeds or other impurities from marijuana;
- (8) Blenders, bowls, containers, spoons and mixing devices used, or intended for use to compound a controlled substance;
- (9) Capsules, balloons, envelopes and other containers used, or intended for use to package small quantities of a controlled substance;
- (10) Containers and other objects used, or intended for use to store or conceal a controlled substance;
- (11) Hypodermic syringes, needles, and other objects used, or intended for use to parenterally inject a controlled substance into the human body, and
- (12) Objects used, or intended for use to ingest, inhale, or otherwise introduce marijuana, cocaine, hashish, or hashish oil into the human body, including but not limited to:
 - (a) Metal, wooden, acrylic, glass, stone, plastic or ceramic pipes with or without screens, permanent screens, hashish heads or punctured metal bowls;
 - (b) Water pipes;
 - (c) Carburetion tubes and devices;
 - (d) Smoking and carburetion masks;

- (e) Roach clips: meaning objects used to hold burning material, such as a marijuana cigarette, that has become too small or too short to be held in the hand;
- (f) Miniature cocaine spoons and cocaine vials;
- (g) Chamber pipes;
- (h) Carburetor pipes;
- (i) Electric pipes;
- (j) Air-driven pipes;
- (k) Chillums;
- (l) Bongs; and
- (m) Ice pipes or chillers.

13-1504. CONSIDERATIONS IN DETERMINING WHETHER OBJECT IS DRUG PARAPHERNALIA.

In determining whether an object is drug paraphernalia, the trier of fact, in addition to all other logically relevant factors, should consider:

- (1) Statements by an owner or by anyone in control of the object concerning its use;
- (2) Prior convictions, if any, of an owner, or of anyone in control of the object, under any state or federal law relating to a controlled substance;
- (3) The proximity of the object, in time and space, to a direct violation of this chapter;
- (4) The proximity of the object to a controlled substance;
- (5) The existence of any residue of a controlled substance on the object;
- (6) Instructions whether oral or written, provided with the object concerning its use;
- (7) Descriptive materials accompanying the object which explain or depict its use;
- (8) National and local advertising concerning its use;
- (9) The manner in which the object is displayed for sale;
- (10) Whether the owner or anyone in control of the object is a legitimate supplier of like or related items to the community, such as a licensed distributor or dealer of tobacco products;
- (11) Direct or circumstantial evidence of the ratio of sales of the object to the total sales of the business enterprise;
- (12) The existence and scope of legitimate uses of the object in the community; and

(13) Expert testimony concerning its use.

13-1505. UNLAWFUL ACTS.

(1) It is unlawful for any person to use, or to possess with intent to use, drug paraphernalia to plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce, process, prepare, test, analyze, pack, repack, store, contain, inject, ingest, inhale or otherwise introduce a controlled substance into the human body in violation of this chapter. Any person who violates this subsection is guilty of a class B misdemeanor.

(2) It is unlawful for any person to deliver, possess with intent to deliver, or manufacture with intent to deliver, any drug paraphernalia, knowing that the drug paraphernalia will be used to plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce, process, prepare, test, analyze, pack, repack, store, contain, conceal, inject, ingest, inhale, or otherwise introduce a controlled substance into the human body in violation of this act. Any person who violates this subsection is guilty of a class A misdemeanor.

(3) Any person 18 years of age or over who delivers drug paraphernalia to a person under 18 years of age who is three years or more younger than the person making the delivery is guilty of a misdemeanor.

(4) It is unlawful for any person to place in this state in any newspaper, magazine, handbill, or other publication any advertisement, knowing that the purpose of the advertisement is to promote the sale of drug paraphernalia. Any person who violates this subsection is guilty of a class B misdemeanor.

13-1506. SEIZURE – FORFEITURE – PROPERTY RIGHTS.

Drug paraphernalia is subject to seizure and forfeiture and no property right can exist in it.

13-1600. IMITATION CONTROLLED SUBSTANCES.

13-1601. SHORT TITLE.

This chapter shall be known and may be cited as the Delta City Imitation Controlled Substances Ordinance.

13-1602. DEFINITIONS. As used in this act:

(1) “Controlled substance” means a substance as defined in section 58-37-2 (5) of the Utah Controlled Substances Act.

(2) “Distribute” means the actual, constructive or attempted sale, transfer, delivery or dispensing to another of an imitation controlled substance.

(3) "Manufacture" means the production, preparation, compounding, processing, encapsulating, tableting, packaging or repackaging, labeling or re-labeling, of an imitation controlled substance.

(4) "Imitation controlled substance" means a substance that is not a controlled substance, which by overall dosage unit substantially resembles a specific controlled substance in appearance (such as color, shape, size, and markings), or by representations made, would cause a reasonable person to believe that the substance is a controlled substance.

13-1603. CONSIDERATIONS IN DETERMINING WHETHER SUBSTANCE IS IMITATION CONTROLLED SUBSTANCE.

If the appearance of the dosage unit is not reasonably sufficient to establish that the substance is an imitation controlled substance, as in liquids or powders, the following factors as to representations made should be considered:

(1) Statements made by an owner or by anyone else in control of the substance, concerning the nature of the substance, or its use or effect;

(2) Statements made to the recipient that that substance may be resold at a price substantially higher than the usual and customary price for the ingredients contained in the substance;

(3) Whether the substance is packaged or labeled in a manner generally used for controlled substances;

(4) Evasive tactics or actions utilized by the owner or person in control of the substance to avoid detection by law enforcement authorities;

(5) Prior convictions of an owner or anyone in control of the object, under state or federal law related to controlled substances or fraud, and

(6) The proximity of the substances to controlled substances.

13-1604. MANUFACTURE, DISTRIBUTION OR POSSESSION OF SUBSTANCE UNLAWFUL – PENALTY.

It is unlawful for any person to manufacture, distribute, or possess with intent to distribute, an imitation controlled substance. Any person who violates this section shall be guilty of a class B misdemeanor and upon conviction may be imprisoned for a term not to exceeding six months, fined not more than \$299, or both.

13-1605. DISTRIBUTION OF SUBSTANCE TO MINOR – PENALTY.

Any person 18 years of age or over who distributes an imitation controlled substance to a person under 18 years of age is guilty of a class B misdemeanor and upon conviction may be imprisoned for not more than six months, fined not more than \$299, or both.

13-1606. USE OF SUBSTANCE UNLAWFUL – PENALTY.

It is unlawful for any person to use, or to possess with intent to use, an imitation controlled substance. Any person who violates this section is guilty of a class C misdemeanor and upon conviction may be imprisoned for not more than 90 days, fined not more than \$299, or both.

13-1607. ADVERTISEMENT OF SUBSTANCE UNLAWFUL – PENALTY.

It is unlawful for any person to place any newspaper, magazine, handbill or other publication, or to post or distribute in any public place, any advertisement or solicitation with reasonable knowledge that the purpose of the advertisement or solicitation is to promote the distribution of imitation controlled substances. Any person who violates this section is guilty of a class B misdemeanor and upon conviction may be imprisoned for not more than six months, fined not more than \$299, or both.

13-1608. EXEMPTION OF PERSONS REGISTERED UNDER CONTROLLED SUBSTANCES.

No civil or criminal liability shall be imposed by virtue of this act on any person registered under the Controlled Substances Act who manufactures, distributes or possesses an imitation controlled substance for use as a placebo or investigational new drug by a registered practitioner in the ordinary course of professional practice or research or on any law enforcement officer acting in the course and legitimate scope of that employment.